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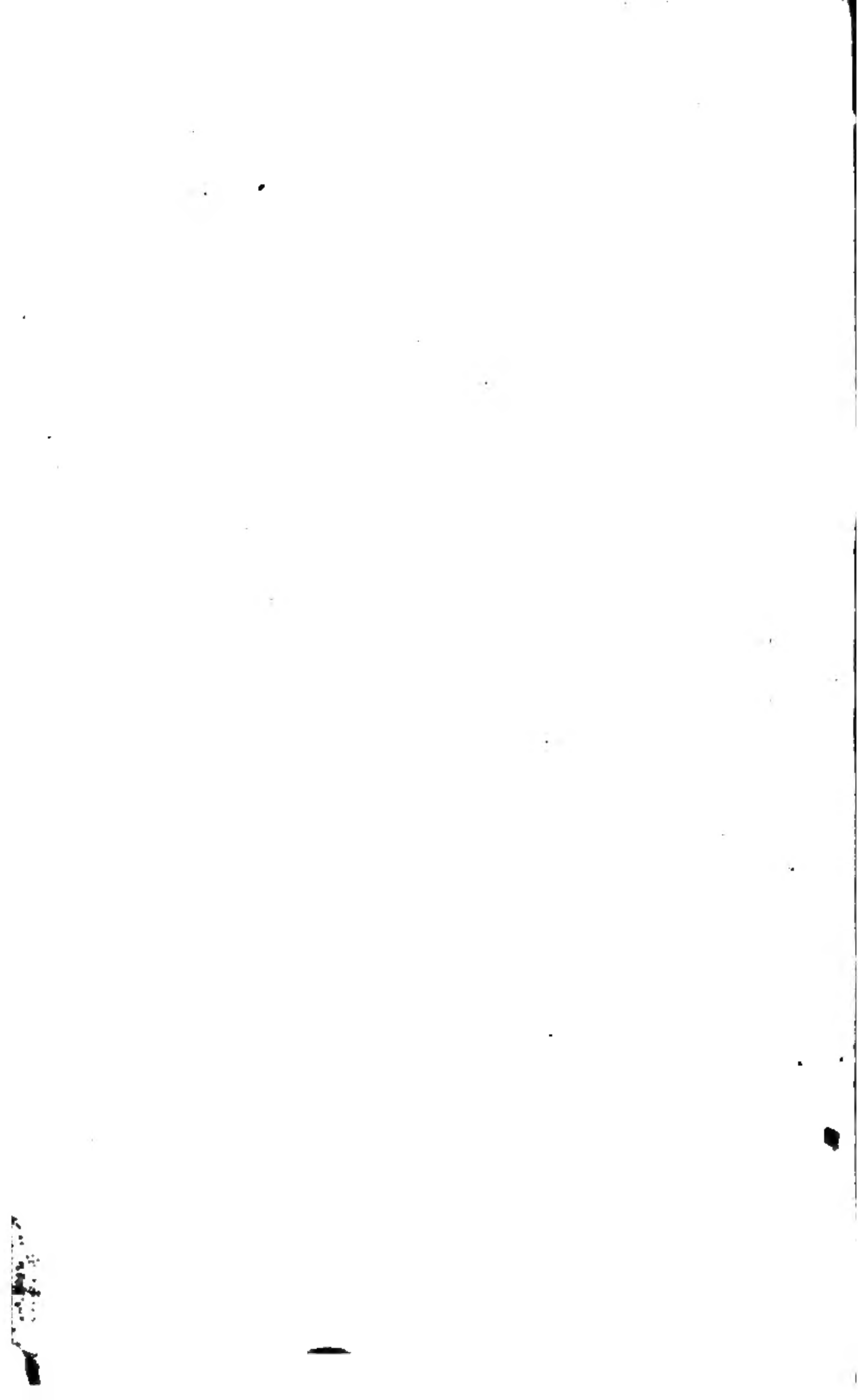






















# L A W S

OF THE

S T A T E   O F   N E W   Y O R K ,

VOL. II,

PASSED AT THE

ONE HUNDRED AND FIFTEENTH SESSION

OF THE

LEGISLATURE,

BEGUN JANUARY FIFTH, 1892, AND ENDED APRIL TWENTY-FIRST, 1892,  
IN THE CITY OF ALBANY.

STARR

NEW

ALBANY:  
BANKS & BROTHERS, PUBLISHERS.  
1892.

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AUG 2 1929

VIA AIR

## CERTIFICATE.

OFFICE OF THE SECRETARY OF STATE  
OF THE STATE OF NEW YORK,  
ALBANY, *Aug. 1, 1892.* }

Pursuant to the directions of the act entitled "An act relative to the publication of the Laws," passed April 12, 1843, I hereby certify, that the following volume of the Laws of this State, was printed under my direction.

FRANK RICE,

*Secretary of State.*

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In this volume, every act which received the assent of a majority of all the members of the Legislature, "three-fifths of all the members elected to either House" thereof being present, pursuant to section 21 of article 3 of the Constitution of this State, is designated under its title by the words "passed, three-fifths being present." [See Laws of 1847, chap. 253, as amended by Laws of 1888, chap. 4.]

And every act which received "the assent of two-thirds of all the members elected to each branch of the Legislature," pursuant to section 9 of article 1 of the Constitution of this State, is designated under its title by the words "passed by a two-thirds vote." [See Laws of 1842, chap. 306, as amended by Laws of 1888, chap. 4.]

This volume is published pursuant to the Laws of 1892, Chapter 623.



LIST OF OFFICERS.

"§ 4. There shall be prefixed to each volume of the Session Laws hereafter published, the names and residences of the Governor, Lieutenant-Governor, Senators and Members of Assembly, and presiding officers of both Houses, in office at the time of the passage of the laws contained in such volumes."— *Laws of 1847, Chap. 458, Sec. 4.*

NAMES AND RESIDENCES

OF THE GOVERNOR, LIEUTENANT-GOVERNOR, SENATORS, MEMBERS OF ASSEMBLY, AND PRESIDING OFFICERS OF BOTH HOUSES OF THE LEGISLATURE OF THE STATE OF NEW YORK, AT THE TIME OF THE PASSAGE OF THE LAWS CONTAINED IN THIS VOLUME.

GOVERNOR.

ROSWELL P. FLOWER... ..\*ALBANY, ALBANY Co.

LIEUTENANT-GOVERNOR.

WILLIAM F. SHEEHAN.... ..BUFFALO, ERIE Co.

SENATORS.

Dist.	NAME.	County.	Address.
1....	Edward Floyd Jones,..	Queens.....	Seaford.
2 ...	John McCarty .....	Kings.....	Brooklyn.
3....	Joseph Aspinall.....	Kings.....	Brooklyn.
4....	Patrick H. McCarren.....	Kings.....	Brooklyn.
5....	William L. Brown.....	New York.....	New York.
6....	John F. Ahearn.....	New York.....	New York.
7....	George F. Roesch .....	New York..	New York.
8....	Martin T. McMahon.....	New York.....	New York.
9....	Edward P. Hagan.....	New York.....	New York.
10....	Jacob A. Cantor†.....	New York.....	New York.
11...	George W. Plunkitt.....	New York.....	New York.
12. ..	Charles P. McClelland....	Westchester..	Dobb's Ferry.
13....	William P. Richardson....	Orange .....	Goshen.
14....	Clarence E. Bloodgood....	Greene .....	Catskill.
15....	Edward B. Osborne.....	Dutchess....	Poughkeepsie.
16 ...	John H. Derby.....	Washington.....	Sandy Hill.
17....	Amasa J. Parker.....	Albany .....	Albany.
18 ...	Harvey J. Donaldson.....	Saratoga.....	Ballston Spa.
19....	Louis W. Emerson.....	Warren.....	Warrensburgh.
20....	George Z. Erwin.....	St. Lawrence ...	Potsdam.
21....	Joseph Mullin .....	Jefferson.....	Watertown.
22 ...	Henry J. Coggeshall.....	Oneida .....	Waterville.
23....	John E. Smith.....	Madison.....	Morrisville.
24....	Edmund O'Conner.....	Broome.....	Binghamton.
25....	John A. Nichols .....	Onondaga .....	DeWitt.
26 ...	Thomas Hunter.....	Cayuga .....	Sterling.
27....	Charles E. Walker.....	Steuben.....	Corning.
28....	Charles T. Saxton.....	Wayne .....	Clyde.
29....	Cornelius R. Parsons .....	Monroe.....	Rochester.
30....	Greenleaf S. Van Gorder..	Wyoming.....	Pike.
31....	Mathias Endres....	Erie.....	Buffalo.
32....	James T. Edwards.....	Cattaraugus.....	Randolph.

CLERK OF THE SENATE.

Charles T. Dunning..... Goshen, Orange Co.

\* Official residence. † Jacob A. Cantor, President pro tem. of the Senate.

## LIST OF OFFICERS.

## MEMBERS OF ASSEMBLY.

Dist.	NAME.	County.	Address.
1 ...	Artcher LaGrange.....	Albany .....	Slingerlands.
2....	Walter E. Ward .....	Albany .....	Albany.
3....	Galen R. Hitt.....	Albany ...	Albany.
4....	John T. Gorman.....	Albany .....	Albany.
	M. M. Congdon.....	Allegany.....	West Clarksville.
	Israel T. Deyo .....	Broome.....	Binghamton.
1....	William E. Wheeler.....	Cattaraugus.....	Portville.
2....	Solon S. Laing .....	Cattaraugus.....	East Otto.
1....	Charles C. Adams..	Cayuga.....	Weedsport.
2....	William L. Noyes.....	Cayuga .....	Owasco.
1....	Walter C. Gifford.....	Chautauqua.....	Jamestown.
2....	Egburt E. Woodbury.....	Chautauqua...	Jamestown.
	Robert P. Bush.....	Chemung .....	Horseheads.
	Charles H. Stanton....	Chenango. .	Plymouth.
	Edward Hall .....	Clinton .....	Lyon Mountain.
	Henry L. Warner.....	Columbia.....	Canaan Four Corners.
	James H. Tripp .....	Cortland.....	Marathon.
	James R. Cowan..	Delaware .....	Hobart.
1....	Obed Wheeler .....	Dutchess.....	South Dover.
2....	John A. Vanderwater.....	Dutchess.....	Poughkeepsie
1 ...	John J. Clahan.....	Erie.....	Buffalo.
2....	Jacob Goldberg.....	Erie ...	Buffalo.
3....	Edward Gallagher.....	Erie.....	Buffalo.
4....	Henry H. Gunther .....	Erie.....	Buffalo.
5...	Myron H. Clark.....	Erie.....	Elma.
	Walter D. Palmer .....	Essex.....	Essex.
	Allen S. Matthews...	Franklin.....	Fort Covington.
	Horace S. Judson.....	Fulton and Hamilton....	Gloversville.
	Charles N. Reed.....	Genesee.....	North Bergen.
	Edward M. Cole.....	Greene.....	Windham.
	Henry H. Green.....	Herkimer.....	Paine's Hollow.
1....	Harrison Fuller .....	Jefferson.....	Adams Centre
2 ..	Martin L. Willard.....	Jefferson.....	Antwerp.
1....	Joseph J. Cahill.....	Kings..	Brooklyn
2....	William J. Plant.....	Kings.....	Brooklyn.
3....	John Cooney.....	Kings.....	Brooklyn.
4....	John J. O'Conner.....	Kings.....	Brooklyn.
5....	John Kelly.....	Kings.....	Brooklyn.
6....	William E. Shields.....	Kings.....	Brooklyn.
7....	Louis C. Ott.....	Kings.....	Brooklyn.
8....	James F. Quigley.....	Kings.....	Brooklyn.
9...	Lawrence E. Malone.....	Kings.....	Brooklyn.
10....	Thomas F. Byrnes .....	Kings.....	Brooklyn.
11 ...	George L. Weed.....	Kings.....	Brooklyn.
12 ...	Charles A. Conrady....	Kings.....	Bath Beach.
	G. Henry P. Gould.....	Lewis.....	Lyons Falls.
	Jesse Roberts .....	Livingston....	Scottsburg.
	Clarence W. Dexter .....	Madison.....	Munnsville.
1....	Frank M. Jones.....	Monroe.....	Webster.
2 ..	Richard Curran .....	Monroe..	Rochester.
3 ...	William H. Denniston....	Monroe.....	Parma Centre.
	George J. Gove.....	Montgomery .....	Rural Grove.
1....	Patrick H. Duffy.....	New York.....	New York city.
2....	Timothy D. Sullivan.....	New York.....	New York city.
3....	Percival Farquhar.....	New York.....	New York city.
4....	Patrick H. Roche.....	New York.....	New York city.
5....	Dominick F. Mullaney ..	New York.....	New York city.
6....	Samuel J. Foley.....	New York.....	New York city.
7....	Alfred R. Conkling.....	New York.....	New York city.
8....	Philip Wissig.....	New York.....	New York city.
9....	William H. Walker.....	New York.....	New York city.



# LIST OF OFFICERS.

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## MEMBERS OF ASSEMBLY — *Continued.*

Dist.	NAME.	County.	Address.
10....	William Sohmer .....	New York.. .....	New York city.
11....	William N. Hoag.....	New York.....	New York city.
12....	Moses Dinkelspiel.....	New York .....	New York city.
13....	James H. Southworth.....	New York .....	New York city.
14....	William Sulzer.....	New York .....	New York city.
15....	Louis Drypolcher.....	New York .....	New York city.
16...	Walter G. Byrne. . . . .	New York .....	New York city.
17....	Thomas J. McManus.....	New York .....	New York city.
18....	Daniel F. Martin.....	New York.....	New York city.
19....	John Connolly . . . . .	New York .....	New York city.
20 ..	Myer J. Stein .....	New York .....	New York city.
21....	Louis H. Hahlo .....	New York .....	New York city.
22 ...	William J. O'Dair.....	New York .....	New York city.
23....	George P. Webster... ..	New York .....	New York city.
24 ...	James L. Wells.....	New York .....	New York city.
1....	Garwood L. Judd .....	Niagara.....	Tonawanda.
2....	Levi P. Gillette .. . . .	Niagara.....	Youngstown.
1....	Cornelius Haley.. . . .	Oneida.....	Utica.
2....	Harry S. Patten .. . . .	Oneida.....	Whitesboro.
3. . .	Chester W. Porter.....	Oneida.....	North Western.
1....	Patrick J. Ryan.....	Onondaga.....	Syracuse.
2....	William Kennedy.....	Onondaga.....	Syracuse.
3...	Adam C. Listman.....	Onondaga .....	Syracuse.
	Frank O. Chamberlain....	Ontario.....	Canandaigua.
1 ...	Howard Thornton .....	Orange .....	Newburgh.
2....	William E. McCormick...	Orange .....	Port Jervis.
	Adelbert J. McCormick...	Orleans... ..	Medina.
1...	Nevada N. Stranahan. . .	Oswego .....	Fulton.
2.. .	Wilbur H. Selleck .....	Oswego .....	Williamstown.
1 ...	Charles Goodell.....	Otsego.....	Worcester.
2....	Walter L. Brown.....	Otsego.....	Oneonta.
	William H. Ladue.....	Putnam.....	Cold Spring.
1. . .	Solomon S. Townsend ....	Queens .....	Oyster Bay.
2....	George L. Weeks.....	Queens .....	Seaford.
1....	James M. Riley .. . . .	Rensselaer .....	Troy.
2....	Levi E. Worden.....	Rensselaer .....	Hoosick Falls.
3....	John J. Cassin .....	Rensselaer .....	Greenbush.
	Hubbard R. Yetman.....	Richmond.....	Tottenville.
	Thomas Finegan.....	Rockland .....	Haverstraw.
1 ..	George R. Malby .....	St. Lawrence.....	Ogdensburg.
2....	John C. Keeler.....	St. Lawrence.....	Canton.
3....	Lewis C. Lang .....	St. Lawrence .....	Brasher Falls.
1...	Frank L. Smith .. . . .	Saratoga .....	Birchton.
2....	Lewis Varney .....	Saratoga.....	Saratoga Springs.
	Alvin J. Quackenbush....	Schenectady .....	Schenectady.
	William T. Lamont.....	Schoharie ... ..	Richmondville.
	William H. Wait.....	Schuyler.....	Watkins.
	William H. Kinne.....	Seneca.....	Ovid.
1....	Gordon M. Patchin.....	Steuben .....	Wayland.
2....	Herman E. Buck.....	Steuben .....	Canisteo.
	James H. Pierson. . . . .	Suffolk.....	Southampton.
	George M. Beakes.....	Sullivan.....	Bloomburgh.
	Edward G. Tracy.....	Tioga .....	Waverly.
	Albert H. Pierson... ..	Tompkins .....	Trumansburgh.
1....	George M. Brink.....	Ulster.....	Kingston.
2....	Jacob Rice.....	Ulster.....	Rondout.
3....	George H. Bush.....	Ulster.....	Ellenville.
	Howard Conkling.....	Warren.....	Luzerne.
1....	William D. Stevenson....	Washington.....	North Argyle.
2 ..	William Reid.....	Washington.....	West Hebron.
1....	George W. Brinkerhoff ...	Wayne .....	Red Creek.
2....	Flynn Whitcomb.....	Wayne .....	Ontario.

LIST OF OFFICERS.

MEMBERS OF ASSEMBLY — *Continued.*

Dist.	NAME.	County.	Address.
1....	Thomas K. Frazer.....	Westchester.....	Hastings-on-Hudson.
2....	William Ryan . . . . .	Westchester.....	Port Chester.
3 ...	James W. Husted.....	Westchester.....	Peekskill.
	Milo H. Olin . . . . .	Wyoming.....	Perry.
	Everett Brown.....	Yates.....	Bluff Point.

SPEAKER OF THE ASSEMBLY.

Hon. Robert P. Bush .....Horseheads, Chemung County

CLERK OF THE ASSEMBLY.

Charles R. Defreest.....Troy, Rensselaer County.

**L A W S**  
**OF THE**  
**STATE OF NEW YORK.**  
**VOLUME II.**

PASSED AT THE ONE HUNDRED AND FIFTEENTH REGULAR SESSION  
OF THE LEGISLATURE, BEGUN THE FIFTH DAY OF JANUARY, 1892,  
AND ENDED THE TWENTY-FIRST DAY OF APRIL, 1892, AT THE CITY  
OF ALBANY, COMPRISING CHAPTERS 677 TO 691, BOTH INCLUSIVE.

**CHAP. 677.**

**AN ACT** relating to the construction of statutes constituting  
chapter one of the general laws.

**APPROVED** by the Governor May 18, 1892. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and  
Assembly, do enact as follows:*

**CHAPTER I OF THE GENERAL LAWS.**

**THE STATUTORY CONSTRUCTION LAW.**

- SECTION**
1. Short title ; extent of application.
  2. Property.
  3. Real property.
  4. Personal property.
  5. Person.
  6. Judge.
  7. Lunacy ; idiocy.
  8. Gender ; number ; tense.
  9. Heretofore ; hereafter ; now.
  10. Last ; preceding ; next ; following.
  11. Folic.

**SECTION 12. Writing; signature.**

13. Seal.
14. Oath ; affidavit ; swear.
15. Acknowledge ; acknowledgment.
16. Bond ; undertaking.
17. Choose ; elect ; appoint.
18. Board composed of one person.
19. Meeting ; quorum ; powers of majority.
20. Service of notice upon board or body.
21. County clerk ; register.
22. Village.
23. State.
24. Public holiday ; half-holiday.
25. Year.
26. Month.
27. Day ; mode of computing days ; night-time.
28. Standard time.
29. Civil and criminal codes.
30. Laws of England and of the colony of New York.
31. Limiting the effect of repealing statutes.
32. Existing laws included in revision not to be construed as new enactments.
33. Effect of revision upon laws passed at same session or before revision takes effect.
34. Alterations of titles and head notes.
35. Laws repealed.
36. Time of taking effect.

**SECTION 1. Short title ; extent of application.**—This chapter shall be known as the statutory construction law, and is applicable to every statute unless its general object, or the context of the language construed, or other provisions of law indicate that a different meaning or application was intended from that required to be given by this chapter.

**§ 2. Property.**—The term property includes real and personal property.

**§ 3. Real property.**—The term real property includes real estate, lands, tenements and hereditaments, corporeal and incorporeal.

**§ 4. Personal property.**—The term personal property includes chattels, money, things in action, and all written instruments themselves, as distinguished from the rights or interests to which they relate, by which any right, interest, lien or incumbrance in, to or upon property, or any debt or financial obligation is created, acknowledged, evidenced, transferred, discharged or defeated, wholly or in part, and everything, except real property, which may be the subject of ownership. The term chattels includes goods and chattels.

§ 5. **Person.**—The term person includes a corporation and a joint stock association. When used to designate a party whose property may be the subject of any offense, the term person also includes the state, or any other state, government or country which may lawfully own property in the state.

§ 6. **Judge.**—The term judge includes every judicial officer authorized, alone or with others, to hold or preside over a court of record.

§ 7. **Lunacy; idiocy.**—The terms lunatic and lunacy include every kind of unsoundness of mind except idiocy.

§ 8. **Gender; number; tense.**—Words of the masculine gender include the feminine and the neuter, and may refer to a corporation, or to a board or other body or assemblage of persons; and, when the sense so indicates, words of the neuter gender may refer to any gender. The term men includes boys and the term women includes girls.

Words in the singular number include the plural, and in the plural number include the singular.

Words in the present tense include the future.

§ 9. **Heretofore; hereafter; now.**—Each of the terms, heretofore, and hereafter, in any provision of a statute, relates to the time such provision takes effect. The term now in any provision of a statute referring to other laws in force, or to persons in office, or to any facts or circumstances as existing, relates to the laws in force, or the person in office, or to the facts or circumstances existing, respectively, immediately before the taking effect of such provision.

§ 10. **Last; preceding; next; following.**—A reference to the last or preceding section, or other provision of a statute, means the section or other division immediately preceding, and a reference to the next or following section or other division of a statute means the section or other division immediately following.

§ 11. **Folio.**—A folio is one hundred words, counting as a word each figure necessarily used.

§ 12. **Writing; signature.**—The terms writing and written include every legible representation of letters upon a material substance, except when applied to the signature of an instrument. The term signature includes any memorandum, mark or sign, written or placed upon any instrument or writing with intent to execute or authenticate such instrument or writing.

§ 13. **Seal.**—The private seal of a person, other than a corporation, to any instrument or writing shall consist of a wafer, wax or

other similar adhesive substance affixed thereto, or of paper or other similar substance affixed thereto, by mucilage or other adhesive substance, or of the word "seal," or the letters "L. S.," opposite the signature.

A seal of a court, public officer or corporation may be impressed directly upon the instrument or writing to be sealed, or upon wafer, wax or other adhesive substance affixed thereto, or upon paper or other similar substance affixed thereto by mucilage or other adhesive substance. An instrument or writing duly executed, in the corporate name of a corporation, which shall not have adopted a corporate seal, by the proper officers of the corporation under their private seals, shall be deemed to have been executed under the corporate seal.

§ 14. **Oath ; affidavit ; swear.**—The terms oath and affidavit include every mode authorized by law of attesting the truth of that which is stated.

The term swear includes every mode authorized by law for administering an oath. When an affidavit is authorized or required it may be sworn to before any officer authorized by law to take the acknowledgment of deeds in this state, unless a particular officer is specified before whom it is to be taken.

§ 15. **Acknowledge ; acknowledgment.**—When the execution of any instrument or writing is authorized or required by law to be acknowledged, or to be proven so as to entitle it to be filed or recorded in a public office, the acknowledgment may be taken or the proof made before any officer then and there authorized to take the acknowledgment or proof of the execution of a deed of real property to entitle it to be recorded in a county clerk's office, and shall be made and certified in the same manner as such acknowledgment or proof of such deed.

The term acknowledge and acknowledgment, when used with reference to the execution of an instrument or writing other than a deed of real property, includes a compliance with the provisions of this section by either such proof or acknowledgment.

§ 16. **Bonds ; undertaking.**—A provision of law authorizing or requiring a bond to be given shall be deemed to have been complied with by the execution of an undertaking to the same effect.

§ 17. **Choose ; elect ; appoint.**—The term choose includes elect and appoint.

§ 18. **Board composed of one person.**—A reference to several officers of a municipal corporation holding the same office, or to a board of such officers, shall be deemed to refer to the single officer

holding such office, when but one person is chosen to fill such office in pursuance of law.

§ 19. **Meeting; quorum; powers of majority.**—Whenever three or more public officers are given any power or authority, or three or more persons are charged with any public duty to be performed or exercised by them jointly or as a board or similar body, a majority of all such persons or officers at a meeting duly held at a time fixed by law, or by any by-law duly adopted by such board or body, or at any duly adjourned meeting of such meeting, or at any meeting duly held upon reasonable notice to all of them, may perform and exercise such power, authority or duty, and if one or more of such persons or officers shall have died or have become mentally incapable of acting, or shall refuse or neglect to attend any such meeting, a majority or the whole number of such persons or officers shall be a quorum of such board or body, and a majority of a quorum, if not less than a majority of the whole number of such persons or officers may perform and exercise any such power, authority or duty. Any such meeting may be adjourned by a less number than a quorum. A recital in any order, resolution or other record of any proceeding of such a meeting that such meeting had been so held or adjourned, or that it had been held upon such notice to the members, shall be presumptive evidence thereof.

§ 20. **Service of notice upon body or board.**—When a notice is required to be given to a board or body, service of such notice upon the clerk or chairman thereof shall be sufficient.

§ 21. **County clerk; register.**—Any act done in pursuance of law by the register of a county shall be deemed to be a compliance with any provision of law authorizing or requiring such act to be done by the county clerk of such county, and any instrument or writing filed, entered or recorded in pursuance of law in the office of a register of a county, shall be deemed to be a compliance with any provision of law authorizing or requiring such paper to be filed, entered or recorded, as the case may be, in the office of the clerk of such county.

§ 22. **Village.**—The term village means an incorporated village.

§ 23. **State; territory.**—The term state, when used generally to include every state of the United States, includes also every territory of the United States and the District of Columbia. The term territory when used generally to include every territory of the United States, includes also the District of Columbia.

§ 24. **Public holiday; half-holiday.**—The term holiday includes



the following days in each year: The first day of January, known as New Year's day; the twenty-second day of February, known as Washington's birthday; the thirtieth day of May, known as memorial day; the fourth day of July, known as independence day; the first Monday of September, known as labor day, and the twenty-fifth day of December, known as Christmas day, and if either of such days is Sunday, the next day thereafter; each general election day and each day appointed by the president of the United States or by the governor of this state as a day of general thanksgiving, general fasting and prayer, or other general religious observance.

The term half-holiday includes the period from noon to midnight of each Saturday which is not a holiday.

§ 25. **Year.**—Time shall continue to be computed in this state according to the Gregorian or new style. The first day of each year after the year 1752 is the first day of January, according to such style. For the purpose of computing and reckoning the days of the year in the same regular course in the future, every year, the number of which in the Christian era is a multiple of four, is a bisextile or leap year consisting of three hundred and sixty-six days, unless such number of the year is a multiple of one hundred and the first two figures thereof treated as a separate number is not a multiple of four, and every year which is not a leap year is a common year consisting of three hundred and sixty-five days.

The term year in a statute, contract, or any public or private instrument, means three hundred and sixty-five days, but the added day of a leap year and the day immediately preceding shall for the purpose of such computation be counted as one day.

In a statute, contract or public or private instrument, the term year means twelve months, the term half-year, six months, and the term a quarter of a year, three months.

§ 26. **Month.**—In a statute, contract or public or private instrument, unless otherwise provided in such contract or instrument or by law, the term month means a calendar month and not a lunar month. A number of months after or before a certain day shall be computed by counting such number of calendar months from such day, exclusive of the calendar month in which such day occurs, and shall include the day of the month in the last month so counted having the same numerical order in days of the month as the day from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

§ 27. **Day ; mode of computing days ; night-time.**— A calendar day includes the time from midnight to midnight. Sunday or any day of the week specifically mentioned means a calendar day. A number of days specified as a period from a certain day within which or after or before which an act is authorized or required to be done means such number of calendar days exclusive of the calendar day from which the reckoning is made. Sunday or a public holiday other than a half-holiday must be excluded from the reckoning if it is the last day or an intervening day of any such period of two days. In computing any specified number of days, weeks or months from a specified event, the day upon which the event happens is deemed the day from which the reckoning is made. The day from which any specified number of days, weeks or months of time is reckoned shall be excluded in making the reckoning.

Night-time includes the time from sunset to sunrise.

§ 28. **Standard time.**—The standard time throughout this state is that of the seventy-fifth meridian of longitude west from Greenwich, and all courts and public officers, and legal and official proceedings, shall be regulated thereby. Any act required by or in pursuance of law to be performed at or within a prescribed time, shall be performed according to such standard time.

§ 29. **Civil and Criminal Codes.**—The term Civil Code means the Code of Civil Procedure. The term Criminal Code means the Code of Criminal Procedure.

§ 30. **Laws of England and of the colony of New York.**—A statute of England or Great Britain shall not be deemed to have had any force or effect in this state since May 1, 1788. Acts of the legislature of the colony of New York shall not be deemed to have had any force or effect in this state since December 29, 1828.

The resolutions of the congress of such colony and of the convention of the state of New York, shall not be deemed to be the laws of this state hereafter.

§ 31. **Limiting the effect of repealing statutes.**—The repeal hereafter or by this chapter of any provision of a statute, which repeals any provision of a prior statute, does not revive such prior provision. The repeal hereafter or by this chapter of any provision of a statute, which amends a provision of a prior statute, leaves such prior provision in force unless the amendatory statute be a substantial re-enactment of the statute amended. The repeal of a statute or part thereof shall not affect or impair any act done or right accruing, accrued or acquired, or liability, penalty, forfeiture or

punishment incurred prior to the time such repeal takes effect, but the same may be asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such repeal had not been effected; and all actions and proceedings, civil or criminal, commenced under or by virtue of any provision of a statute so repealed, and pending immediately prior to the taking effect of such repeal, may be prosecuted and defended to final effect in the same manner as they might if such provisions were not so repealed.

§ 32. **Existing laws included in revision not to be construed as new enactments.**—The provisions of any chapter of the revision of the general laws, of which this chapter is a part, so far as they are substantially the same as those of laws existing at the time such chapter takes effect, shall be construed as a continuation of such laws, modified or amended according to the language employed in such provisions, and not as new enactments. References in laws not repealed to provisions of law which are incorporated into any such chapter and repealed shall be construed as applying to the provisions so incorporated.

§ 33. **Effect of revision upon laws passed at same session or before revision takes effect.**—No provision of any chapter of the revision of the general laws, of which this chapter is a part, shall supersede or repeal by implication any law passed at the same session of the legislature at which any such chapter was enacted, or passed after the enactment of any such chapter and before it shall have taken effect; and an amendatory law passed at such session or at any subsequent session begun before any such chapter takes effect, shall not be deemed repealed, unless specifically designated in the repealing schedule of such chapter.

§ 34. **Alterations of titles and head notes.**—If the title of any article or other division of a statute, or the head note of a section shall be amended or repealed in the body of the statute, or if a new article or other division having a title, or a new section having a new head note be added to a statute, the corresponding title or head note, if any, in an abstract of contents at the beginning of the article or other division of the statute shall be deemed to be correspondingly amended or repealed, although there be no express reference thereto.

§ 35. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 36. **Time of taking effect.**—This chapter shall take effect immediately.

	Sections repealed.
Revised Statutes, part I, chapter 8, title 8...	16.
Revised Statutes, part I, chapter 19, title 1..	1, 2, 3, 4, 5.
Revised Statutes, part II, chapter 4, title 2...	3.
Revised Statutes, part II, chapter 4, title 3..	9.
Revised Statutes, part III, chapter 8, title 17.	27.
Revised Statutes, part III, chapter 10, title 4.	4.
Revised Statutes, part IV, chapter 2, title 8...	16.
Laws 1828, second meeting, 51st session, chapter 20.....	9, 10, 11.
Laws 1828, second meeting, 51st session, chapter 21.....	3 and 4.
Laws 1857, chapter 536 .....	3.
Laws 1874, chapter 321 .....	All.
Laws 1877, chapter 466 .....	27.
Laws 1884, chapter 14. ....	All.
Laws 1886, chapter 21. ....	20.
Code of Civil Procedure .....	29, 788, 960 and subdivi- visions 6, 7, 8, 15, 17, 21, 22, 23 and 24 of section 3343.
Code of Criminal Procedure .....	955, 956, 957.
Penal Code .....	261, 500, and subdivis- ions 9, 10, 11, 12, 13, 14 and 15 of section 718.

CHAP. 678.

AN ACT in relation to the sovereignty, boundaries, survey, great seal and arms of the state, constituting chapter two of the general laws.

APPROVED by the Governor May 18, 1892. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

CHAPTER II OF THE GENERAL LAWS.

THE STATE LAW.

- ARTICLE I. The state boundaries (§§ 1-11).  
II. Cessions to the United States (§§ 20-37).  
III. The arms and great seal of the state (§§ 40-46).

## ARTICLE I.

## THE STATE BOUNDARIES.

- SECTION 1. Short title.
2. The Connecticut boundary line.
  3. The Massachusetts boundary line.
  4. The Vermont boundary line.
  5. The Canada boundary line.
  6. The Pennsylvania boundary line.
  7. The New Jersey boundary line.
  8. Preservation of monuments.
  9. Restoration of monuments.
  10. Saving clause.
  11. Defense of state sovereignty and jurisdiction.

SECTION 1. Short title.—This chapter shall be known as the state law.

§ 2. The Connecticut boundary line.—The boundary line between the states of New York and Connecticut is as follows:

Beginning at a point in the east boundary line of Connecticut on a line running northwesterly between points marked 3 and 2, in the channel north of Fisher's island, at the east end of Long Island sound, as shown on the United States coast survey chart of Fisher's Island sound, and running northwesterly to point marked No. 2; thence following the west  $\frac{1}{4}$  south sailing course westerly to point marked No. 1, about 1,000 feet northerly from the Hammock or North Dumpling lighthouse; thence running southwesterly to a point four statute miles true south of New London lighthouse; thence in a straight line (the arc of a great circle) southwesterly to a point  $3\frac{1}{2}$  statute miles true southeast from point marked No. 0 in the center of the channel, about 600 feet south of the extreme rocks of Byram point, formerly called Lyon's point; thence  $3\frac{1}{2}$  statute miles true northwest to the said point marked No. 0; thence following up the center of Byram river on courses marked by bolts set in rocks on the banks of the river, to the great stone with bolt fixed in it, at the ancient wading place on the east bank of Byram river, and which has always been known as a point in the state line; thence N.  $24^{\circ} 19' W.$  173.07 chains to the monument point in highway; thence N.  $24^{\circ} 21' W.$  224.78 chains to point near old Clapp House; thence N.  $23^{\circ} 38' W.$  172.93 chains to a stone marked G. R. in the highway at Duke's trees; thence N.  $66^{\circ} 25' E.$  398.40 chains to the fifth mile monument; thence N.  $66^{\circ} 45' E.$  319.12 chains to the ninth mile monument; thence N.  $66^{\circ} 56' E.$  241.93

chains to the point of original twelfth mile monument ; thence N.  $65^{\circ} 44'$  E. 90.87 chains to the southwest corner of oblong, where survey of 1725 terminated ; thence N.  $67^{\circ} 45'$  E. 138.76 chains to Wilton angle monument at the southeast corner of oblong, as set off by commissioners of 1731 ; thence N.  $24^{\circ} 14'$  W. 167.28 chains to the two mile monument ; thence N.  $24^{\circ} 48'$  W. 157.63 chains to the 4th mile monument, on east line of the oblong ; thence N.  $25^{\circ} 8'$  W. 213.39 chains to the Ridgefield angle monument ; thence N.  $14^{\circ} 10'$  E. 109.41 chains to the two mile monument ; thence N.  $11^{\circ} 44'$  E. 158.99 chains to the 4th mile monument 20.5 rods east from Mopo creek ; thence N.  $12^{\circ} 10'$  E. 164.42 chains to the 6th mile monument ; thence N.  $10^{\circ} 19'$  E. 159.28 chains to the 8th mile monument ; thence N.  $12^{\circ} 24'$  E. 155.71 chains to the tenth mile monument ; thence N.  $10^{\circ} 51'$  E. 313.41 chains to the fourteenth mile monument ; thence N.  $10^{\circ} 11'$  E. 161.07 chains to the sixteenth mile monument ; thence N.  $12^{\circ} 19'$  E. 157.15 chains to the eighteenth mile monument ; thence N.  $11^{\circ} 49'$  E. 159.09 chains to the twentieth mile monument ; thence N.  $12^{\circ} 18'$  E. 163.17 chains to the twenty-second mile monument ; thence N.  $11^{\circ} 39'$  E. 320.11 chains to the twenty-sixth mile monument ; thence N.  $10^{\circ} 56'$  E. 160 chains to the twenty-eighth mile monument ; thence N.  $12^{\circ} 27'$  E. 161.32 chains to the thirtieth mile monument ; thence N.  $11^{\circ} 44'$  E. 243.37 chains to the thirty-third mile monument ; thence N.  $12^{\circ} 32'$  E. 158.96 chains to the thirty-fifth mile monument ; thence N.  $12^{\circ} 21'$  E. 398.21 chains to the fortieth mile monument in Sharon valley, forty rods east from Ten Mile river ; thence N.  $13^{\circ} 16'$  E. 161.24 chains to the forty-second mile monument ; thence N.  $11^{\circ} 33'$  E. 160.99 chains to the forty-fourth mile monument, twelve rods east from Indian pond ; thence N.  $12^{\circ} 34'$  E. 239.57 chains to the forty-seventh mile monument ; thence N.  $11^{\circ} 20'$  E. 464.69 chains to the monument in the Massachusetts line, erected in 1731 as the northeast corner of equivalent or oblong in that year ceded to New York by Connecticut and standing in a valley of the Taghanic mountains 160 rods east from the southwest corner of Massachusetts, and 122 rods eastward from a bolt placed in a rock on the top of the most westerly of said mountains where the southerly Massachusetts line crosses it.

The said metes and bounds are those defined by monuments erected by commissioners appointed by the legislature of the state of New York and completed in the year 1860, as shown by the report of such commissioners dated February 8, 1861, and adopted by agree-



ment between commissioners of New York and Connecticut, made December 8, 1879, and consented to by act of congress approved February 26, 1881, and which took effect by the terms of the act of the legislature of this state, ratifying and confirming the same, on July 6, 1880, the date of the filing in the office of the secretary of state, of the notice of the adoption of such agreement by the state of Connecticut. The ratification and confirmation by this state, of such agreement, is continued in force.

The following is a copy of such agreement :

“Memorandum of agreement by and between the subscribers, commissioners of the states of New York and Connecticut, respectively, to settle the question of the boundaries between said states, being thereunto authorized by the resolutions of said states respectively passed by them, is hereunto annexed. That is to say, we, Allen C. Beach, secretary of state ; Augustus Schoonmaker, Jr., attorney-general, and Horatio Seymour, Jr., state engineer and surveyor, commissioners of the state of New York, and we, Origen S. Seymour, La Fayette S. Foster, and William T. Minor, commissioners of the state of Connecticut, have agreed and do hereby agree, to fix, determine and establish the boundaries between our respective states, subject to the approval and ratification of the legislatures of our respective states in the following manner: We agree that the boundary on the land constituting the western boundary of Connecticut and the eastern boundary of the state of New York shall be and is as the same was defined by monuments erected by commissioners appointed by the legislature of the state of New York and completed in the year eighteen hundred and sixty. The said boundary line extending from Byram point, formerly called Lyon's point, on the south, to the line of the state of Massachusetts on the north. And we further agree that the boundary on the sound shall be and is as follows: Beginning at a point in the center of the channel about six hundred feet south of the extreme rocks of Byram point, marked No. 0, on appended United States coast survey chart; thence running in a true southeast course three and one-fourth statute miles; thence in a straight line (the arc of a great circle) northeasterly to a point four statute miles true south of New London light-house; thence northeasterly to a point marked number one on the annexed United States coast survey chart of Fisher's island sound, which point is on the longitude east three-quarters north sailing-course drawn on said map, and is about one thousand feet northerly from the Hammock or North Dumpling light-house; thence following said east three-fourths



north sailing-course as laid down on said map easterly to a point marked number two on said map; thence southeasterly toward point marked number three on said map, so far as said states are coterminous; provided, however, that nothing in the foregoing agreement contained shall be construed to affect existing titles to property corporeal or incorporeal, held under grants heretofore made by either of said states, nor to affect existing rights which said states, or either of them, or which the citizens of either of said states may have, by grant, letters-patent or prescription, of fishing in the waters of said sound, whether for shell or floating fish, irrespective of the boundary-line hereby established, it not being the purpose of this agreement to define, limit or interfere with any such right, rights or privileges, whatever the same may be.

In witness whereof we have hereunto set our hands to this instrument and to a duplicate thereof, December eight, eighteen hundred and seventy-nine.

ALLEN C. BEACH,

*" Secretary of State.*

AUGUSTUS SCHOONMAKER, JR.,

*Attorney-General.*

HORATIO SEYMOUR, JR.,

*State Engineer and Surveyor.*

*Commissioners of the State of New York.*

ORIGEN S. SEYMOUR,

LAFAYETTE S. FOSTER,

WILLIAM T. MINOR,

*Commissioners of the State of Connecticut."*

§ 3. **Massachusetts boundary line.**—The boundary line between the states of New York and Massachusetts is as follows:

Commencing at the said monument erected in 1781 as the northeast corner of equivalent or oblong in that year ceded to New York by Connecticut, and standing in a valley of the Taghanic mountains 160 rods east from the southeast corner of Massachusetts, and 122 rods eastward from a bolt placed in a rock on the top of the most westerly of said mountains, where the southerly Massachusetts line crosses it; thence along the southern bounds of Massachusetts N.  $81^{\circ} 44' 56''$  W. 40 chains, to a marble post marked on the south and west sides "N. Y." and on the east side "Ms," and on the north side "1853," which stone marks the southeast corner of Boston corner as established by Commissioners J. Z. Goodrich of Massachu.

setta, and R. G. Dorr of New York, on report of survey by J. T. Hogeboom, dated December 20, 1853; thence by true meridian N.  $12^{\circ} 57' 16''$  W. 207.49 chains to a marble post marked on the east side "Ma," on the west side "N. Y." and on the south side "1853," thence along the line as the same was laid out by the United States commissioners in 1787, N.  $15^{\circ} 12' 9''$  E. 47 miles 73.81 chains to a marble post marking the junction of the New York and Massachusetts line with the southern line of Vermont; thereby including within the state of New York that portion of the former territory of Massachusetts known as the district of Boston corner, situate formerly in the southwesterly corner of Massachusetts, and westerly of the southwest line of the town of Mount Washington, in the county of Berkshire, and ceded to the state of New York upon certain conditions by an act of the legislature of Massachusetts passed in\* May 14, 1853, entitled "An act relating to the separation of the district of Boston corner from this commonwealth, and the cession of the same to the state of New York."

The acceptance by this state of sovereignty and jurisdiction of such ceded territory which took effect January 3, 1855, the date of the approval of the act of congress consenting to such cession, is continued in force, subject to the retention by the state of Massachusetts of jurisdiction in any cause which arose or was pending before the date of the issuing of the proclamation provided in the third section of such act of the legislature of Massachusetts.

§ 4. **Vermont boundary line.**—The boundary line between the states of New York and Vermont is as follows:

Commencing at the said marble post marking the junction of the New York and Massachusetts line with the southern line of Vermont; thence along the southern boundary of Vermont as the same was laid out by joint commission of the two states in 1813, N.  $82^{\circ} 20'$  W. 50 chains to a rough stone supported by a heap of stones on the brow of a high hill descending to the west; thence N.  $5^{\circ}$  W. 3 miles 72 chains; thence N.  $35^{\circ}$  E. 30 chains to a hemlock tree on the westerly bank of the Hoosick river; thence N.  $1^{\circ} 20'$  W. 6 chains to a hewn marble stone; thence N.  $27^{\circ} 20'$  E. 30 chains through the bed of said river to a large roundish rock on the northeasterly bank thereof; thence N.  $25^{\circ}$  W. 16.70 chains; thence N.  $9^{\circ}$  W. 18.60 chains; thence N.  $11^{\circ}$  E. 77 chains; thence N.  $46^{\circ}$  E. 6 chains; thence S.  $66^{\circ}$  E. 26.25 chains; thence N.  $9^{\circ}$  E. 27.50 chains to a blue slate stone marking the southwest corner of Bennington;

\* So in the original.

thence from the Bennington corner N.  $7^{\circ} 30'$  E. 6 miles 52 chains to the northwest corner of the town of Bennington; thence N.  $8^{\circ} 20'$  E. 6 miles 44.50 chains to the northwest corner of the town of Shaftsbury; thence N.  $9^{\circ}$  E. 13 miles 2.50 chains to the northwest corner of the town of Sandgate and the southwest corner of the town of Rupert; thence N.  $8^{\circ}$  E. 1 mile 41 chains; thence N.  $10^{\circ} 15'$  E. 55.50 chains; thence N.  $9^{\circ} 15'$  E. 19.70 chains; thence N.  $8^{\circ} 45'$  E. 4 miles 13.40 chains to the northeast corner of the town of Rupert; thence N.  $8^{\circ}$  E. 6 miles 31.15 chains to the northwest corner of the town of Pawlet; thence N.  $70^{\circ} 30'$  E. 6 miles 6.25 chains to the northwest corner of the town of Wells; thence N.  $7^{\circ}$  E. 1 mile 12.50 chains to a bunch of hornbeam saplings on the south bank of the Poultney river; according to the report made October 25, 1814, of commissioners appointed by the states of New York and Vermont; thence along the middle of the deepest channel of said river to East bay; thence along the middle of the deepest channel of East bay and the waters thereof to where the same communicates with Lake Champlain; thence along the middle of the deepest channel of Lake Champlain to the eastward of the islands called the Four Brothers and westward of the islands called Grand isle and Long isle or the Two Heroes, and to the westward of the Isle La Mott, to the parallel of the forty-fifth degree north latitude, as run by Valentine and Collins, 1771–1774; according to report dated October 7, 1791, of commissioners appointed by chapter eighteen of the laws passed at the thirteenth session of the legislature of this state in 1790; thereby including within the state of New York, all that portion of the former town of Fair Haven, formerly in the county of Rutland and state of Vermont, lying westerly from the middle of the deepest channel of Poultney river as it now runs, and between the middle of the deepest channel of such river and the west line of the state of Vermont, as established on March 19, 1879, as the same is described in an act of the legislature of Vermont entitled “An act annexing that portion of the town of Fair Haven, lying west of Poultney river, to the state of New York,” and approved by the governor of Vermont November 27, 1876. The acceptance by this state of sovereignty and jurisdiction of such ceded territory which took effect April 7, 1880, the date of the approval of the act of congress consenting to such cession, is continued in force.

§ 5. The Canada boundary line.—The boundary line between the state of New York and Canada is as follows:

Commencing at the intersection of the parallel of the forty-fifth degree of north latitude with the middle of the deepest channel of the Richelieu river and running thence westerly along said parallel of forty-five degrees north latitude as originally run by Valentine and Collins, 1771-1774, to a point on the south shore of the St. Lawrence river (but shown by the United States survey of boundary line in 1845, under treaty of Washington, 1842, on sheet maps XXVI to XXX to vary from true parallel of forty-five degrees, as follows: monument 645, on bank of Richelieu river, is .822 miles north of parallel of  $45^{\circ}$  and .02 miles west from river; thence westerly 14.68 miles to monument 673, at .336 miles north; thence westerly 6.56 miles to monument 685, at .353 miles north; thence westerly 9.20 miles to monument 703, at .004 miles south; thence westerly 7.43 miles to monument 717, at .429 miles south; thence westerly 10.02 miles to monument 737, at .475 miles south; thence westerly 6.34 miles to monument 749, at .140 miles south; thence westerly 5.88 miles to monument 762, on true parallel of  $45^{\circ}$ ; thence westerly 4.20 miles to monument 774, at .030 miles north on bank of St. Lawrence river S.  $74^{\circ} 45'$  W. 1840 yards distant from the stone church in the Indian village of St. Regis, this line being recognized as the boundary line by article one of said treaty of Washington). Thence beginning at aforesaid point on the south shore of the Saint Lawrence river, marked by monument 774, under the treaty of Washington, 1842, and in 1817 by a stone monument erected by Andrew Ellicott (the location of which point is described above), and running north  $35^{\circ} 45'$  west into the river, on a line a\* right angles with the southern shore, to a point 100 yards south of the opposite island, called Cornwall island; thence turning westerly and passing around the southern and western side of said island keeping 100 yards distant therefrom, and following the curvatures of its shores, to a point opposite to the northwest corner or angle of said island; thence to and along the middle of the main river until it approaches the eastern extremity of Barnhart's island; thence northerly along the channel which divides the last mentioned island from the Canada shore, keeping 100 yards distant from the island, until it approaches Sheik's island; thence along the middle of the strait which divides Barnhart's and Sheik's islands to the channel called the Long Sault, which separates the two last mentioned islands from the lower Long Sault island; thence westerly (crossing the center of the last mentioned channel) until it approaches within

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\* So in the original.

100 yards of the north shore of the Lower Sault island; thence up the north branch of the river keeping to the north of and near the Lower Sault island, and also north of and near the Upper Sault, sometimes called Baxter's island, and south of the two small islands marked on the map A and B, to the western extremity of the Upper Sault or Baxter's island; thence passing between the two islands called the Cats, to the middle of the river above; thence along the middle of the river, keeping to the north of the small islands marked C and D, and north also of Chrystler's island, and of the small island next above it, marked E, until it approaches the northeast angle of Goose Neck island; thence along the passage which divides the last mentioned island from the Canada shore, keeping 100 yards from the island to the upper end of the same; thence south of and near the two small islands called the Nut islands; thence north of and near the island marked F, and also of the island called Dry or Smuggler's island; thence passing between the islands marked G and H to the north of the island called Isle au Rapid Platt; thence along the north side of the last mentioned island, keeping 100 yards from the shore, to the upper end thereof; thence along the middle of the river, keeping to the south of and near the islands called Coussin (or Tussin) and Presque isle; thence up the river, keeping north of and near the several Gallop Isles numbered on the map 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, and also of Tick, Tibbits, and Chimney islands, and south of and near the Gallop isles numbered 11, 12 and 13, and also of Duck, Drummond, and Sheep islands; thence along the middle of the river, passing north of island No. 14, south of 15 and 16, north of 17, south of 18, 19, 20, 21, 22, 23, 24, 25 and 28, and north of 26 and 27; thence along the middle of the river, north of Gull island and of the islands Nos. 29, 32, 33, 34, 35, Bluff island, and Nos. 39, 44 and 45, and to the south of Nos. 30, 31, 36, Grenadier island, and Nos. 27, 28, 40, 41, 42, 43, 46, 47 and 48 until it approaches the east end of Wells island, thence to the north of Wells island, and along the strait which divides it from Rowe's island, keeping to the north of the small islands Nos. 51, 52, 54, 58, 59 and 61, and to the south of the small islands numbered and marked 49, 50, 53, 55, 57, 60, and X, until it approaches the northeast point of Grindstone island; thence to the north of Grindstone island and keeping to the north also of the small islands Nos. 63, 65, 67, 68, 70, 72, 73, 74, 75, 76, 77 and 78, and to the south of Nos. 62, 64, 66, 69 and 71, until it approaches the southern point of Hickory island; thence passing to the south of Hickory island and of the two small islands

lying near its southern extremity numbered 79 and 80; thence to the south of Grand or Long island, keeping near its southern shore, and passing to the north of Carlton island, until it arrives opposite to the southwestern point, of said Grand island, in Lake Ontario; thence, passing to the north of Grenadier, Fox, Stony, and the Gallop islands, in Lake Ontario, and to the south of and near the islands called the Ducks, to the middle of the said lake, thence westerly along the middle of said lake to a point opposite the mouth of the Niagara river, thence to and up the middle of the said river to the Great Falls; thence up the Falls through the point of the Horse Shoe, keeping to the west of Irish or Goat island, and of the group of small islands at its head, and following the bends of the river so as to enter the strait between Navy and Grand islands; thence along the middle of said strait to the head of Navy island; thence to the west and south of and near to Grand and Beaver islands, and to the west of Strawberry, Squaw, and Bird islands to Lake Erie; thence southerly and westerly along the middle of Lake Erie in a direction to enter the passage immediately south of Middle island, being one of the eastern most of the group of islands lying in the western part of said lake. (According to the decision of the commissioners under the sixth article of the treaty of Ghent, 1814, done at Utica, state of New York, June 18, 1822) to intersection with meridian line of cession, drawn through the most westerly bent or inclination of Lake Ontario, under deed of cession to the United States, executed March 1, 1781, under chapter thirty-eight of the third session of the legislature of this state in 1780, which meridian line was surveyed and marked with monuments by Andrew Ellicott in 1790, as duly appointed under resolution of Congress, August 19, 1789, and resurveyed in 1881 to 1885, and final report made December 1, 1885, by H. W. Clark, civil engineer and surveyor, on the part of the state of New York.

**§ 6. The Pennsylvania boundary line.**—The boundary line between the states of New York and Pennsylvania is as follows:

Commencing at said intersection of said meridian line of cession, and running thence south to the shore of Lake Erie at initial monument set by A. Ellicott in 1790 as above; thence true south 440 feet to a large monument of Quincy granite, set in 1869, in latitude  $42^{\circ} 16' 5.39''$ , and longitude  $79^{\circ} 45' 45.26''$ , as deduced by the United States lake survey, marked 1869, latitude  $42^{\circ} 15' 57.9''$ , longitude  $79^{\circ} 45' 54.4''$ , by commissioners duly authorized on the part of the states of New York and Pennsylvania as stated in reports of regents



boundary commission in 1886 ; thence south on said meridian line 13.895 miles to Fourteen Mile point ; thence south 4.647 miles at an angle of 4' west to a large terminal monument ; thence on the same line 100 feet to the southwest corner of New York marked by monument (in latitude  $42^{\circ} 0' 1.42''$ , as determined by state survey) set in 1787 by A. Hardenburgh and W. W. Morris, commissioners on the part of New York, and A. Ellicott and A. Porter, commissioners on part of Pennsylvania ; thence due east on parallel of latitude of  $42^{\circ}$ , as surveyed and marked by monuments by said commission, to the ninetieth mile stone erected in 1786 by James Clinton and Simeon De Witt, commissioners on the part of New York, and Andrew Ellicott, commissioner on the part of Pennsylvania, on the west side of the south branch of the Tioga river in latitude  $42^{\circ} 0' 1.3''$  as deduced by the state surveyor in 1879 ; thence due east on line established and marked by the last mentioned commission to a point in the center of Delaware river, such line passing through a monument set in the year 1884 by H. W. Clarke, surveyor, on the part of the state of New York, and C. M. Gere, surveyor, on the part of the state of Pennsylvania, and located six hundred feet west of the center of said river (all of the above line passing through monuments placed between the years 1881 and 1885 by said H. W. Clarke and C. M. Gere, of which a schedule is given in their report to the commission appointed by virtue of the provisions of chapter 340 of the laws of 1880, and dated December 1, 1885, showing angular deflections at each mile stone, with distances between each, summarized as follows : Southwest state corner to Chautauqua county corner 36.090 miles ; to Cattaraugus county corner 38.743 miles ; to Allegany county corner 28.769 miles ; to Steuben county corner (mile post eighty-two) 40.411 miles ; to Tioga county corner, on the left bank of the Chemung river, 21.066 miles ; to Broome county corner 23.387 miles ; to the center of the Delaware river 38.396 miles ; thence down the center of the Delaware river about eighty-five miles to its junction with the Neversink river ; each of the states of New York and Pennsylvania having concurrent jurisdiction within and upon the waters of that portion of the main channel of the Delaware river between the lines of low water at either bank thereof ; then S.  $51^{\circ}$  E. on prolongation of boundary line between New York and New Jersey, to " tri-state monument," set in 1882 by joint commission, over bolt in bare lime-stone rock near the confluence of the Neversink and Delaware rivers as settled in 1769 by commission appointed by king of Great Britain, and

marked by a crow foot cut into its upper face, in latitude  $41^{\circ} 21' 22.63''$ , and longitude  $74^{\circ} 41' 40.70''$  west as determined by the United States coast survey in 1874. The said metes and bounds are in accordance with and subject to the agreement between commissioners of the states of New York and Pennsylvania, which took effect August 19, 1890, the date of the approval of the act of congress consenting thereto. The ratification and confirmation by this state of such agreement is continued in force. The following is a copy of such agreement :

An agreement made the twenty-sixth day of March, in the year eighteen hundred and eighty-six, between Henry R. Pierson, Elias W. Leavenworth and Chauncey M. Depew, commissioners on the part of the state of New York, and Christopher M. Gere and Robert N. Torry, commissioners on the part of the state of Pennsylvania.

WHEREAS, By the first section of chapter four hundred and twenty-four of the laws of the state of New York, for the year eighteen hundred and seventy-five, the regents of the university of the state of New York were authorized and directed to resume the work of "examination as to the true location of the monuments which mark the several boundaries of the state," as authorized by the resolution of the senate of April nineteenth, eighteen hundred and sixty-seven, and in connection with the authorities of Pennsylvania, to replace any monuments which may have become dilapidated or been removed on the boundary line of that state ; and,

WHEREAS, The said board of regents of the university did through a committee of said board, previously appointed for the purpose, under said senate resolution of eighteen hundred and sixty-seven, proceed to carry out the instructions contained in said chapter four hundred and twenty-four of the laws of eighteen hundred and seventy-five ; and,

WHEREAS, By chapter three hundred and forty of the laws of the said state of New York for the year eighteen hundred and eighty the said regents of the university were further authorized and empowered to designate and appoint three of their number as commissioners to meet such commissioners as may have been or may be appointed on the part of the state of Pennsylvania, and with such last-named commissioners as soon as may be, to proceed to ascertain and agree upon the location of the boundary line between said states, as originally established and marked with monuments, and in case any monuments are found dilapidated or removed from their original location, to replace them in a durable manner in their original posi-



tion, and to erect such additional monuments at such places on such lines as they may deem necessary for the proper designation of the boundary line between said states; and,

WHEREAS, The above-named Henry R. Pierson, Elias W. Leavenworth and Chauncey M. Depew were by resolution passed on the thirteenth day of July, eighteen hundred and eighty, duly designated and appointed by the said regents of the university of the state of New York as commissioners on the part of the state of New York for the purposes mentioned in said act; and,

WHEREAS, Also, by an act of the legislature of the state of Pennsylvania, entitled "An act in regard to the boundary monuments on the line between the state of Pennsylvania and New York, with an appropriation for expenses of the same," passed May eighth, eighteen hundred and seventy-six, the governor of the state of Pennsylvania was authorized and empowered 'to appoint three persons to be a commission to act in conjunction with a similar commission of the state of New York, to examine as to the true location of the monuments which mark the boundary line between this state and the state of New York, and in connection with said commission of the state of New York, to replace any monuments which may have been dilapidated or been removed on the boundary lines of said states'; and,

WHEREAS, The governor of the state of Pennsylvania, under authority of said act, did duly designate and appoint James Worrall, Christopher N. Gere and Robert N. Torry, to be a commission for the purposes of said act; and,

WHEREAS, James Worrall, the first-named member of said commission, died during the progress of the work on said boundary line; to wit, on April first, eighteen hundred and eighty-five, and the surviving members, to wit: Christopher M. Gere and Robert N. Torry, have continued the work of said commission on the part of the state of Pennsylvania, as authorized by the aforesaid act.

Now, THEREFORE, the said commissioners for and on behalf of their respective states, having duly performed the duties imposed upon them by the said acts, and having examined said boundary line, and replaced in a durable manner the monuments to mark the same in pursuance of the authority duly given as aforesaid, have agreed and do hereby agree as follows:

*First.* The channel of the Delaware river, from a line drawn across said channel, from a granite monument erected upon the eastern bank of said river in the year eighteen hundred and eighty-two, by the joint boundary commission of the states of New Jersey and New

York to mark the western extremity of the boundary line between said states of New Jersey and New York, in a westerly prolongation of said boundary line up and along said channel of said Delaware river as it winds and turns, for a distance of eighty-five miles or thereabouts, to a line drawn east across said river from a granite monument erected upon the west bank of said river in the year eighteen hundred and eighty-four, by H. W. Clarke and C. M. Gere, to mark the eastern extremity of the first line hereinafter described, shall continue to be a part of the boundary or partition line between the said two states; provided, however, that the limit of territory between the said two states shall be the center of the said main channel, and provided further, that each state shall enjoy and exercise a concurrent jurisdiction within and upon the water of said main channel between the lines of low water at either bank thereof, between the limits hereinbefore mentioned.

*Second.* The line extending from the Delaware river aforesaid, at a point upon said river fixed and marked with monuments (which have since disappeared), by David Rittenhouse and Samuel Holland, in the month of November, in the year seventeen hundred and seventy-four, west, as the same was surveyed and marked with monuments in the year seventeen hundred and eighty-six, as far as the ninetieth milestone, by James Clinton and Simeon De Witt, commissioners on the part of the state of New York, duly appointed for that purpose by the governor of said state, in pursuance of an act of the legislature of said state, entitled 'An act for running out and marking the jurisdiction line between this state and the commonwealth of Pennsylvania,' passed seventh March, seventeen hundred and eighty-five, and David Rittenhouse, Andrew Porter and Andrew Ellicott, commissioners on the part of the commonwealth of Pennsylvania, duly appointed for that purpose by the supreme executive council of said commonwealth in pursuance of an act of the general assembly of said commonwealth, entitled 'An act to authorize and enable the supreme executive council to appoint commissioners to join with the commissioners appointed, or to be appointed, on the part of the state of New York, to ascertain the northern boundary of this state from the river Delaware westward to the northwest corner of Pennsylvania,' passed thirty-first March, seventeen hundred and eighty-five, and from the said ninetieth milestone west, as the same was surveyed and marked with monuments and posts in seventeen hundred and eighty-seven by Abraham Hardenbergh and William W. Morris, commissioners on the part of the said state of New

York, duly appointed in the place of Simeon De Witt and James Clinton aforesaid, by the governor of said state in pursuance of the act aforesaid, and the act supplementary thereto, passed by the legislature of said state, twenty-first April, seventeen hundred and eighty-seven, and Andrew Ellicott and Andrew Porter aforesaid, commissioners on the part of the commonwealth of Pennsylvania, to the point where said line is intersected by the line of cession or meridian boundary hereinafter described, which said line so surveyed and marked in the years seventeen hundred and eighty-six and seventeen hundred and eighty-seven has since been acknowledged and recognized by the said two states as a part of the limit of their respective territory and jurisdiction, shall notwithstanding any want of conformity to the verbal description as written in the charter of the province of Pennsylvania, granted to William Penn in the year sixteen hundred and eighty-two, or as recited by the commissioners aforesaid, continue to be the boundary or partition line between the two said states, from the Delaware river aforesaid, to the said point of intersection with the said line of cession; provided that wherever upon said line the locations of any of the monuments, or posts, erected by the said commissioners in seventeen hundred and eighty-six and seventeen hundred and eighty-seven have been lost and can not otherwise be definitely fixed, then and in that case, and in every case where it is required to establish intervening points in said line, a straight line drawn between the nearest adjacent monuments whose localities are ascertained shall be understood to be, and shall be, the true boundary line.

*Third.* The line of cession, described as a meridian line, drawn from the forty-fifth-degree of north latitude, south through the most westerly bent or inclination of Lake Ontario, in the deed of cession to the United States of certain territory claimed by the state of New York, lying west of said line, executed first March, seventeen hundred and eighty-one, by James Duane, William Floyd and Alexander McDougal, delegates in congress of said United States from the said state of New York, in pursuance of an act of the legislature of said state, entitled 'An act to facilitate the completion of the articles of confederation and perpetual union among the United States of America,' passed February nineteenth, seventeen hundred and eighty, which said territory was afterward conveyed by the United States aforesaid to, and became a part of the territory and jurisdiction of the said commonwealth of Pennsylvania, as the said line was surveyed and marked with posts and monuments of stone

in the year seventeen hundred and ninety, by Andrew Ellicott, who was duly appointed for that purpose by the president of the United States, in pursuance of a resolution of congress, passed nineteenth August, seventeen hundred and eighty-nine, which said line, and its prolongation due north into the waters of Lake Erie until it intersects the northern boundary of the United States aforesaid, have since been acknowledged and recognized by the said two states, as a part of the limit of their respective territory and jurisdiction shall, notwithstanding any possible want of conformity to the verbal description thereof, as contained in said deed of cession, continue to be the boundary or partition line between the two said states, so far as said line so surveyed and marked in seventeen hundred and ninety shall extend.

*Fourth.* The monumental marks by which the said boundary line, except such portions thereof as may be within the waters of the Delaware river, and Lake Erie, shall hereafter be known and recognized, are hereby declared to be—

1. The original monuments of stone, erected in the years seventeen hundred and eighty-six and seventeen hundred and eighty-seven by the commissioners aforesaid, and in the year seventeen hundred and ninety by Andrew Ellicott aforesaid, as the same have been restored and re-established in their original positions, or have been replaced by granite monuments erected in the years eighteen hundred and eighty-one, eighteen hundred and eighty-two, eighteen hundred and eighty-three, eighteen hundred and eighty-four and eighteen hundred and eighty-five, by H. Wadsworth Clarke, surveyor on the part of New York, and Christopher M. Gere, surveyor on the part of Pennsylvania, duly appointed by the parties hereto.

II. The new monuments of granite, erected in the years eighteen hundred and eighty-one to eighteen hundred and eighty-five, inclusive, by the aforesaid surveyors, at intervals of one mile, more or less, and numbered consecutively, along said line originally surveyed and marked in the years seventeen hundred and eighty-six and seventeen hundred and eighty-seven, beginning from the Delaware river, and severally marked on the north side with the letters 'N. Y.,' and on the other side with the letters 'PA.' and along said line originally surveyed and marked in the year seventeen hundred and ninety, beginning at the shore of Lake Erie, and severally marked on the east side with the letters 'N. Y.,' and on the west side with the letters 'PA.'

III. The new monuments of granite erected by the said surveyors,

in the years eighteen hundred and eighty-one to eighteen hundred and eighty-five, inclusive, aforesaid, at intervening points on said line, and at its intersection with public roads, railroads and rivers, and at other points, and severally marked on the one side with the letters 'N. Y.,' and on the other side with the letters 'P. A.'

IV. A large monument of granite, erected in the year eighteen hundred and eighty-four by the said surveyors six hundred feet west of the center of the Delaware river in the said line originally fixed in the year seventeen hundred and eighty-six, to mark its eastern terminus; a large monument of granite erected in the year eighteen hundred and eighty-four by the said surveyors in the said line or meridian boundary, as originally fixed in the year seventeen hundred and ninety, one hundred feet north from its intersection with the line originally surveyed as aforesaid, in the year seventeen hundred and eighty-seven, which said point of intersection is marked by a small monument of granite buried in the center of the highway, in eighteen hundred and eighty-four by the said surveyors; and also a large monument of granite erected in the year eighteen hundred and sixty-nine by John V. L. Pruyn, George R. Perkins, Samuel B. Woolworth, and George W. Patterson on the part of the state of New York, and William Evans on the part of the state of Pennsylvania, four hundred and forty feet south of the original monuments erected in the year seventeen hundred and ninety, by Andrew Ellicott aforesaid, upon the south shore of Lake Erie, in the line originally surveyed and marked by him as aforesaid.

*Fifth.* The field book of said surveyors containing the notes of the re-surveys along said line in the years eighteen hundred and seventy-seven, eighteen hundred and seventy-eight and eighteen hundred and seventy-nine; also the 'record of monuments' prepared by said surveyors, containing the descriptions of the locations of the several monuments erected by them, and of the witness marks thereto; also the maps of said line, and the vicinity thereof, showing the locations of said monuments; and also the 'diary of operations' of said surveyors under the direction of the parties hereto; the same having been duly authenticated by the signature of the said surveyors, and the several documents and books of record containing the transactions of the parties hereto; all of which being placed on file in the office of the secretary of state of New York, and the office of the secretary of internal affairs of Pennsylvania, shall constitute the permanent and authentic records of said boundary line, and are hereby adopted by the parties hereto, and made a part of this agreement.

*Sixth.* This agreement shall become binding upon the two states when ratified by the legislatures thereof, respectively, and when confirmed by the congress of the United States.

In witness whereof the said commissioners have hereunto set their hands and seals in duplicate, the twenty-sixth day of March, eighteen hundred and eighty-six, aforesaid.

Executed in the presence of witnesses :

As to Henry R. Pierson : Edward I. Devlin,——H. R. Pierson, L. S.

As to E. W. Leavenworth : H. W. Clarke,——E. W. Leavenworth, L. S.

As to Chauncey M. Depew : Edward I. Devlin,——Chauncey M. Depew, L. S.

As to C. M. Gere : A. D. Birchard,——C. M. Gere, L. S.

As to Robert N. Torry : Andrew Thompson,——Robert N. Torry, L. S.”

§ 7. **The New Jersey boundary line.**—The boundary line between the states of New York and New Jersey is as follows :

Commencing at the said “tri-state monument,” and running thence along the line laid out by a joint commission from the states of New York and New Jersey in 1774, and which was more definitely marked with monuments by another joint commission in 1832, under chapter 340 of the laws of 1880, on an average course S. 51° E., with slight deflections as to the same is marked by mile monuments, a distance of 48.20 miles to the station rock on the west bank of the Hudson river, said station rock being in latitude 40° 59' 48.17" north and longitude 73° 54' 11" west, as determined by the United States coast survey, and marked as the original terminal monument of the line as established in 1774, according to the report of the commissioners on the boundary between the state of New York and the state of New Jersey, dated March 24, 1884; thence easterly to a point in the Hudson river in latitude 40° 59' 49.74" north and longitude 73° 53' 38.57" west; thence southerly along the middle of said river and of the bay of New York to a point opposite the northeast angle of Staten Island; thence westerly along the center of the Kill von Kull to a point opposite the northwest angle of Staten Island; thence southerly along the center of the Arthur kill or Staten Island sound to a point at the entrance of Raritan bay, such point being in latitude 40° 29' 55.57" north, and longitude 74° 15' 33.31" west, as the same is shown on maps and agreement filed by a joint commission of the two states in the office



of the secretary of state, and dated December 23, 1889; thence easterly through the center of Raritan bay to a point between Sandy Hook and Coney Island as the same is shown on a map filed with the secretary of state, and dated October 12, 1877, thence easterly to the main sea.

Such metes and bounds are as reported October 12, 1887, and December 23, 1889, by commissioners to mark out and locate the boundary line in land under water, between the states of New York and New Jersey, and are in accordance with and subject to the two agreements between commissioners of such states, made, respectively, September 16, 1833, and June 7, 1833, and which took effect, respectively, February 5, 1834, and May 23, 1834, the dates of the approvals of the acts of congress consenting thereto. The ratification and confirmation by this state of such agreements are continued in force. The following are copies of such agreements, respectively :

Agreement made between the commissioners on the part of the state of New York, and the commissioners on the part of the state of New Jersey relative to the boundary line between the two states.

Agreement made and entered into by and between Benjamin F. Butler, Peter Augustus Jay and Henry Seymour, commissioners duly appointed on the part and behalf of the state of New York, in pursuance of an act of the legislature of the said state, entitled "An act concerning the territorial limits and jurisdiction of the state of New York and the state of New Jersey," passed January 18, 1833, of the one part, and Theodore Frelinghuysen, James Parker and Lucius Q. C. Elmer, commissioners duly appointed on the part and behalf of the state of New Jersey, in pursuance of an act of the legislature of the said state, entitled "An act for the settlement of the territorial limits and jurisdiction between the states of New Jersey and New York," passed February 6, 1833, of the other part.

ARTICLE FIRST.—The boundary line between the two states of New York and New Jersey, from a point in the middle of Hudson river opposite the point on the west shore thereof, in the forty-first degree of north latitude, as heretofore ascertained and marked, to the main sea, shall be the middle of the said river, of the bay of New York, of the waters between Staten Island and New Jersey, and of Raritan bay, to the main sea, except as hereinafter otherwise particularly mentioned.

**ARTICLE SECOND.**—The state of New York shall retain its present jurisdiction of and over Bedlow's and Ellis' islands, and shall also retain exclusive jurisdiction of and over the other islands lying in the waters above mentioned, and now under the jurisdiction of that state.

**ARTICLE THIRD.**—The state of New York shall have and enjoy exclusive jurisdiction of and over all the waters of the bay of New York, and of and over all the waters of Hudson river lying west of Manhattan island and to the south of the mouth of Spuytenduyvel creek, and of and over the lands covered by the said waters to the low water mark on the westerly or New Jersey side thereof; subject to the following rights of property and of jurisdiction of the state of New Jersey, that is to say :

1. The state of New Jersey shall have the exclusive right of property in and to the land under water lying west of the middle of the bay of New York and west of the middle of that part of the Hudson river which lies between Manhattan island and New Jersey.

2. The state of New Jersey shall have the exclusive jurisdiction of and over the wharves, docks and improvements made, and to be made, on the shore of the said state, and of and over all vessels aground on said shore, or fastened to any such wharf or dock ; except that the said vessels shall be subject to the quarantine or health laws, and laws in relation to passengers, of the state of New York, which now exist or which may hereafter be passed.

3. The state of New Jersey shall have the exclusive right of regulating the fisheries on the westerly side of the middle of said waters, provided that the navigation be not obstructed or hindered.

**ARTICLE FOURTH.**—The state of New York shall have exclusive jurisdiction of and over the waters of the Kill van Kull, between Staten Island and New Jersey, to the westernmost end of Shooter's island, in respect to such quarantine laws and laws relating to passengers as now exists, or may hereafter be passed under the authority of that state, and for executing the same ; and the said state shall also have exclusive jurisdiction, for the like purposes, of and over the waters of the sound, from the westernmost end of Shooter's island to Woodbridge creek, as to all vessels bound to any port in the said state of New York.

**ARTICLE FIFTH.**—The state of New Jersey shall have and enjoy exclusive jurisdiction of and over all the waters of the sound between Staten Island and New Jersey, lying south of Woodbridge creek, and of and over all the waters of Raritan bay lying west-



ward of a line drawn from the light-house at Prince's bay to the mouth of Mattavan creek, subject to the following rights of property and of jurisdiction of the state of New York.

1. The state of New York shall have the exclusive right of property in and to the land under water, lying between the middle of the said waters and Staten Island.

2. The state of New York shall have the exclusive jurisdiction of and over the wharves, docks and improvements made and to be made, on the shore of Staten Island; and of and over all vessels aground on said shore, or fastened to any such wharf or dock, except that the said vessel shall be subject to the quarantine or health laws, and laws in relation to passengers of the state of New Jersey which now exist, or which may hereafter be passed.

3. The state of New York shall have the exclusive right of regulating the fisheries between the shore of Staten Island and the middle of the said waters, provided that the navigation of the said waters be not obstructed or hindered.

ARTICLE SIXTH.—Criminal process issued under the authority of the state of New Jersey, against any person accused of an offence committed within that state; or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid; or committed against the regulations made or to be made by that state, in relation to the fisheries mentioned in the third article; and also civil process issued under the authority of the state of New Jersey against any person domiciled in that state, or against property taken out of that state to evade the laws thereof; may be served upon any of the said waters within the exclusive jurisdiction of the state of New York, unless such person or property shall be on board a vessel aground upon, or fastened to the shore of the state of New York, or fastened to a wharf adjoining thereto; or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New York.

ARTICLE SEVENTH.—Criminal process issued under the authority of the state of New York, against any person accused of an offence committed within that state; or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid; or committed against the regulations made or to be made by that state, in relation to the fisheries mentioned in the fifth article; and also civil process issued under the authority of the state of New York against any person domiciled in that state, or against property taken out of that state to evade the laws thereof; may be served upon any

of the said waters within the exclusive jurisdiction of the state of New Jersey, unless such person or property shall be on board a vessel aground upon, or fastened to the shore of the state of New Jersey, or fastened to a wharf adjoining thereto; or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New Jersey.

ARTICLE EIGHTH.— This agreement shall become binding on the two states when confirmed by the legislatures thereof respectively, and when approved by the congress of the United States.

Done in four parts (two of which are retained by the commissioners of New York, to be delivered to the governor of that state, and the other two of which are retained by the commissioners of New Jersey, to be delivered to the governor of that state), at the city of New York, this sixteenth day of September, in the year of our Lord one thousand eight hundred and thirty-three, and of the independence of the United States, the fifty-eighth.

(Signed,) B. F. BUTLER,  
PETER AUGUSTUS JAY,  
HENRY SEYMOUR,  
THEO. FRELINGHUYSEN,  
JAMES PARKER,  
LUCIUS Q. C. ELMER.

“ An agreement made the seventh day of June, in the year eighteen hundred and eighty-three, between Henry R. Pierson, Elias W. Leavenworth and Chauncey M. Depew, commissioners on the part of the state of New York, and Abraham Browning, Thomas N. McCarter and George H. Cook, commissioners on the part of the state of New Jersey.

WHEREAS, By the first section of chapter three hundred and forty of the laws of the state of New York for the year eighteen hundred and eighty, it was recited, among other things, that whereas, by an act of the legislature passed the twenty-sixth day of May, eighteen hundred and seventy-five, the regents of the university of the state of New York were authorized and directed, in connection with the authorities of Pennsylvania and New Jersey, respectively, to replace any monuments which have become dilapidated or been removed on the boundary lines of those states, and it was thereby declared that the lines originally laid down and marked with monuments by the several joint commissioners, duly appointed for that purpose, and which have since been acknowledged and legally recognized by the several states interested, as the limits of their territory and juris-

diction, are the boundary lines of said states irrespective of want of conformity to the verbal descriptions thereof; and by the second section of the same chapter of the laws of the state of New York, the said regents were authorized and empowered to designate and appoint three of their number as commissioners, to meet such commissioners as may have been, or may be, appointed on the part of the states of Pennsylvania and New Jersey, or either of them, and with such last-named commissioners, as soon as may be, to proceed to ascertain and agree upon the location of said lines as originally established and marked with monuments, and in case any monuments are found dilapidated or removed from their original location, said commissioners are authorized to replace them in a durable manner in their original positions, and to erect such additional monuments at such places on said lines as they may deem necessary for the proper designation of the boundary lines of said states; and

WHEREAS, Also the above-named Henry R. Pierson, Elias W. Leavenworth and Chauncey M. Depew have been duly designated and appointed by the said the regents of the university of the state of New York, commissioners on the part of said state for the purposes mentioned in said act; and

WHEREAS, Also by an act of the legislature of the state of New Jersey, entitled 'An act appointing commissioners to locate the northern boundary line between the states of New York and New Jersey and to replace and erect monuments thereon,' approved April thirteen, eighteen hundred and seventy-six, the governor of the state of New Jersey was authorized to appoint three commissioners with power, on the part of said state of New Jersey, to meet any authorities on the part of the state of New York, who may be duly authorized, and with them to negotiate and agree upon the true location of the said boundary line between the states of New York and New Jersey, and also to replace any monuments which may have become dilapidated, or been removed, on said boundary line, and to erect new ones, which agreement it was thereby enacted should be in writing and signed and sealed by the authorities of the state of New York and the commissioners of the state of New Jersey; and

WHEREAS, The above-named Abraham Browning, Thomas N. McCarter and George H. Cook have been duly appointed commissioners on the part of the state of New Jersey, under said act; and

WHEREAS, By a supplement to the last said act, approved on the twenty-fifth day of March, eighteen hundred and eighty-one, the

commissioners under the last said act were, in addition to the authority conferred by the last said act, also authorized in their discretion to proceed to ascertain and agree upon the location of the northern boundary line between the states of New York and New Jersey, as originally established and marked with monuments, and in case any monuments are found dilapidated, or removed from their original location, said commissioners were authorized to renew and replace them in a durable manner in their original positions, and to erect such additional monuments, at such places on said line, as they may deem necessary for the proper designation of the boundary line of said states; and

WHEREAS, The said commissioners, acting for and on behalf of their respective states, have entered upon the performance of the duties imposed upon them by the said acts, and have, in pursuance of the authority to them severally given as aforesaid, agreed, and hereby do agree, as follows.

*First.* The lines extending from the Hudson river on the east to the Delaware river on the west, as the same was laid down and marked with monuments in seventeen hundred and seventy-four, by William Wickham and Samuel Gale, commissioners on the part of the then colony of New York, duly appointed for that purpose in pursuance of an act of the assembly of the colony of New York, passed on the sixteenth day of February, seventeen hundred and seventy-one, entitled 'An act for establishing the boundary or partition line between the colonies of New York and Nova Cæsarea, or New Jersey, and for conferring titles and possession,' and John Stevens and Walter Rutherford, commissioners on the part of the then colony of New Jersey, duly appointed in pursuance of an act of the assembly of the colony of New Jersey, passed on the twenty-third day of September, seventeen hundred and seventy-two, entitled 'An act for establishing the boundary or partition line between the colonies of New York and Nova Cæsarea, or New Jersey, and for conferring titles and possession,' which said line has since been acknowledged and recognized by the two states as the limit of their respective territory and jurisdiction, shall, notwithstanding its want of conformity to the verbal description thereof as recited by said commissioners, continue to be the boundary or partition line between the said two states; provided that wherever upon said line the location of one or more of the monuments, erected by said commissioners in seventeen hundred and seventy-four, has been lost and cannot be otherwise definitely fixed and determined, then, and in that case and

in every case where it is required to establish intervening points on said line, a straight line drawn between the nearest adjacent monuments whose localities are ascertained shall be the true boundary line.

*Second.* The monumental marks by which said boundary line shall hereafter be known and recognized are hereby declared to be, first, the original monuments of stone erected in seventeen hundred and seventy-four, along said line, by the commissioners aforesaid, as the same has been restored and re-established in their original positions by Edward A. Bowser, surveyor on the part of New Jersey, and Henry W. Clarke, surveyor on the part of New York, duly appointed by the parties hereto; second, the new monuments of granite erected by the aforesaid surveyors at intervals of one mile, more or less, along said line and numbered consecutively, beginning from the Hudson river, and severally marked on the northerly side with the letters N. Y., and on the southerly side with the letters N. J.; and third the monuments of granite erected by the aforesaid surveyors at intervening points on said line at its intersection with public roads, railroads and rivers, and severally marked by them, on the northerly side with the letters N. Y., and on the southerly side with the letters N. J., and fourth, the terminal monuments erected at the western terminus of said line at the confluence of the Delaware and Navesink rivers, and the terminal monument erected on the brow of the rock called the Palisades, near the eastern terminus, and the rock lying and being at the foot of the Palisades on the bank of the Hudson river, and marked as the original terminal monument of said line established in seventeen hundred and seventy-four, as the same are described in a joint report made to the parties hereto by Elias W. Leavenworth, commissioner on the part of New York, and George H. Cook, commissioner on the part of New Jersey.

*Third.* The field books of said surveyors containing the descriptions of the locations of the several monuments erected by them and of the witness marks thereto, the report of said surveyors containing the account of their work in ascertaining and marking said line, together with the topographical map of said line and the vicinity thereof, and the several documents and books of record containing the transactions of the parties aforesaid, having been duly authenticated and attested by the signatures of the said commissioners, and placed in file in the offices of the secretaries of state of the two states, shall constitute the permanent and authentic records of said boundary line, and are hereby adopted by the parties hereto, and made part of this agreement.

*Fourth.* This agreement shall become binding on the two states when confirmed by the legislatures thereof, respectively, and when confirmed by the congress of the United States.

In witness whereof, the said commissioners have hereto set their hands and seals, in duplicate, this seventh day of June, in the year of our Lord one thousand eight hundred and eighty-three.

HENRY R. PIERSON.

E. W. LEAVENWORTH.

CHAUNCEY M. DEPEW.

A. BROWNING.

THOMAS N. McCARTER.

GEO. H. COOK.

Executed in the presence of:

Witness as to Henry R. Pierson, A. C. Judson, Albany, N. Y.

As to Chauncey M. Depew, W. J. Van Arsdale.

As to commissioners of New Jersey, B. Williamson.

Witness to the signature of E. W. Leavenworth, A. F. Lewis."

TRENTON, JANUARY 18, 1890.

An agreement, made the twelfth day of October in the year 1887, between Mayo W. Hazeltine, Robert Moore and Lieut. G. C. Hanus, U. S. N., commissioners on the part of the state of New York, and George H. Cook, Robert C. Bacot and A. B. Stoney, commissioners on the part of the state of New Jersey.

WHEREAS, By chapter 69, of the laws of the state of New York for the year 1887, the governor was authorized to appoint three commissioners on the part of the state of New York, with full power to meet with the commissioners duly authorized on the part of the state of New Jersey, and with them locate and mark out by proper monuments and buoys the true boundary line between the two states in lands under water in Raritan bay; and

WHEREAS, The said Mayo W. Hazeltine, Robert Moore and Lieut. G. C. Hanus, U. S. N., were duly appointed commissioners on the part of the state of New York for the purposes mentioned in the said act; and

WHEREAS, By an act of the legislature of the state of New Jersey, passed April 20, 1886, entitled a "Joint resolution authorizing the appointment of a commissioner to locate and mark out the boundary line between the state of New Jersey and the state of New York in Raritan bay," the governor of the state of New Jersey was authorized to appoint three commissioners, with power on the part



of the state to meet any authorities duly authorized on the part of the state of New York, and with them locate by proper buoys the boundary line between the two states of lands under water in Raritan bay; and

WHEREAS, The said George H. Cook, Robert C. Bacot and A. B. Stoney, were duly appointed commissioners for the purposes of said act; and

WHEREAS, The said commissioners, acting for and on behalf of their respective states, have entered upon the performance of the duties imposed upon them by said act, and have in pursuance of the authority to them severally given as aforesaid agreed and hereby do agree upon a boundary line between the two states in lands under water in Raritan bay, and locate the same as follows:

*First.*—From the “Great Beds Lighthouse” in Raritan bay north  $20^{\circ} 16'$  west, true, to a point in the middle of the waters of Arthur kill or Staten Island sound, equidistant between the south-westerly corner of the dwelling house of David C. Butler, at Ward’s Point, on Staten Island, in the state of New York, and the south-easterly corner of the brick building on the lands of Cortlandt L. Parker, at the intersection of the westerly line of Water street with the northerly line of Lewis street, in Perth Amboy, in the state of New Jersey.

*Second.*—From “Great Beds Lighthouse” S.  $64^{\circ} 21'$  E. true, in the line with the center Waackaack or Wilson’s beacon, in Monmouth county, New Jersey, to a point at the intersection of the said line with a line connecting “Morgan No. 2” triangulation point U. S. coast and geodetic survey in Middlesex county, New Jersey, with the granite and iron beacon marked on the accompanying map as “Romer Stone Beacon,” situated on the “Dry Romer Shoal;” and thence on a line bearing N.  $77^{\circ} 9'$  E. true, connecting “Morgan No. 2” triangulation point U. S. coast and geodetic survey in Middlesex county, New Jersey, with said “Romer Stone Beacon” (the line passing through said beacon and continuing in the same direction) to a point at its intersection with a line drawn between the “Hook Beacon” on Sandy Hook, New Jersey, and the triangulation point of the U. S. geodetic survey known as the Oriental Hotel on Coney Island, New York; then southeasterly at right angles with the last mentioned line to the main sea.

*Third.*—The monumental marks by which said boundary line shall be hereafter known and recognized are hereby declared to be as follows:

1. The "Great Beds Lighthouse."

2. A permanent monument marked "State Boundary Line, New York and New Jersey," and to be placed at the intersection of the line drawn from the "Great Beds Lighthouse" to "Waackaack or Wilson's Beacon," Monmouth county, New Jersey, and the line drawn from "Morgan No. 2" triangulation point U. S. coast and geodetic survey, in Middlesex county, New Jersey, to the "Romer Stone Beacon."

3. Eight buoys or spindles to be marked like the permanent monument above mentioned, and placed at suitable intervening points along the line from the said permanent monument to the "Romer Stone Beacon."

4. The "Romer Stone Beacon."

*Fourth.*—The maps accompanying and filed with this agreement, showing the location of the above described boundary line between the state of New York and the state of New Jersey in Raritan bay to the main sea, and of the monumental marks by which it is marked and to be marked, duly authenticated and attested by the signatures of the said commissioners, and placed on file in the offices of the secretaries of state of the respective states, shall constitute the permanent and authentic records of said boundary line, and are hereby adopted by the parties hereto, and made a part of this agreement.

In witness whereof, the said commissioners have hereto set their hands and seals in duplicate, this twelfth day of October, in the year of our Lord 1887.

M. W. HAZELTINE. [L. S.]

GEO. H. COOK. [L. S.]

ROBERT MOORE. [L. S.]

ROB'T C. BACOT. [L. S.]

G. C. HANUS, LIEUT. U. S. N. [L. S.]

A. B. STONEY. [L. S.]

*Certified to*

EDWARD P. DOYLE,

*Secretary of Joint Commission.*

An agreement made the twenty-third day of December, in the year eighteen hundred and eighty-nine, between Mayo W. Hazeltine, Robert Moore and Lieut. G. C. Hanus, U. S. N., commissioners on the part of the state of New York, and Robert C. Bacot, William M. Oliver and Edwin A. Stevens, commissioners on the part of the state of New Jersey.



WHEREAS, By chapter 69, laws of 1887, the governor of the state of New York was authorized to appoint three commissioners with full power on the part of the state of New York, to meet with the commissioners appointed, or to be appointed, for a like purpose on the part of the state of New Jersey, and with them to locate and mark out by proper monuments and buoys the true boundary line between the two states in lands under water in Raritan bay; and

WHEREAS, The jurisdiction of the said commissioners was continued and extended by chapter 159, laws of 1888, and chapter 212, laws of 1889, so as to include the Arthur kill, Kill von Kull, New York bay and the Hudson river; and

WHEREAS, The said Mayo W. Hazeltine, Robert Moore and Lieut. G. C. Hanus, U. S. N., were duly appointed commissioners on the part of the state of New York, for the purposes mentioned in said acts; and

WHEREAS, By an act of the legislature of the state of New Jersey, passed February 14, 1888, entitled, "A joint resolution authorizing the appointment of a commission to locate and mark out the boundary line between the state of New Jersey and the state of New York, in lands under water in the Arthur kill, Kill von Kull, New York bay and the Hudson river;" and

WHEREAS, George H. Cook, Robert C. Bacot and William M. Oliver were duly appointed commissioners for the purpose of said act; and

WHEREAS, George H. Cook having died, Edwin A. Stevens was appointed in his stead, clothed with the same powers; and

WHEREAS, The said commissioners acting for and on behalf of their respective states, have entered upon the performance of the duties imposed upon them by the said acts of their respective legislatures, and have, in pursuance of the authority to them severally given as aforesaid, agreed and hereby do agree upon a boundary line between the two states in lands under water in the Arthur kill, Kill von Kull, New York bay and the Hudson river, and do locate the same as follows:

*First* — Starting from a point (at the conclusion of the boundary line in Raritan bay) and marked for the purposes of this agreement, A.

This point is equidistant between the southwesterly corner of the dwelling-house of David C. Butler, at Ward's Point, on Staten Island, in the state of New York, and the southeasterly corner of the brick building on the lands of Cortlandt L. Parker, at the intersection of

the westerly line of Water street with the northerly line of Lewis street, in Perth Amboy, in the state of New Jersey.

The line runs thence in a succession of straight lines through the Arthur kill, the Kill von Kull, New York bay and the Hudson river, to a point marked "J J," for the purposes of this agreement.

This point "J. J," is at the extreme northern limit of the boundary line in lands under water, and from this point the line runs westerly to a rock which is described in the report of the New York and New Jersey boundary commission of 1883 as marking the eastern end of the boundary line between New York and New Jersey, as determined upon by the royal boundary commission of 1769.

The absolute geographical locations of the point at the place of beginning and the point of conclusion are as follows :

POINT A (PLACE OF BEGINNING).

Latitude. Seconds in meters. Longitude. Seconds in metres. (Latitude and longitude not given. Description sufficient.)

POINT J J (PLACE OF CONCLUSION).

Latitude.	Seconds in meters.	Longitude.	Seconds in meters.
40° 59' 49"	74 N. 1534.38	74° 53' 38"	57 W. 901.46

The points at which changes of direction occur in the boundary line, from the place of beginning to the place of conclusion, are for the purposes of this agreement lettered or numbered, and their determination and absolute geographical positions are as follows :

LATITUDE.			Seconds in meters.	LONGITUDE.			Seconds in meters.
Degrees.	Minutes.	Seconds.		Degrees.	Minutes.	Seconds.	
B 40	30	31 N.	956.2	74	15	30.74 W.	723.9
C 40	30	56 N.	1727.33	74	15	16.22 W.	382.
D 40	31	15.07 N.	464.8	74	14	47.15 W.	1109.9
E 40	32	31.9 N.	984.	74	15	02.5 W.	58.8
F 40	32	57.38 N.	1769.9	74	14	52.42 W.	1233.9
G 40	33	32.68 N.	1008.	74	13	54.57 W.	1284.
H 40	33	25.03 N.	772.	74	13	06.29 W.	148.
I 40	33	37.54 N.	1157.9	74	12	53.95 W.	1269.4
J 40	34	25.03 N.	772.	74	12	38. W.	893.7
K 40	35	16.12 N.	498.	74	12	27.55 W.	647.9
L 40	35	51.87 N.	1599.9	74	12	00. W.	0.
No. 1 40	36	01. N.	30.8	74	12	00. W.	0.
No. 2 40	36	21.45 N.	661.6	74	12	18.88 W.	443.9
No. 3 40	36	51.02 N.	1573.7	74	12	15.48 W.	363.9
No. 4 40	37	00. N.	0.	74	12	10.21 W.	240.
O 40	37	27.36 N.	844.1	74	12	15.61 W.	366.9
P 40	37	43.24 N.	1333.7	74	12	09.69 W.	227.9
R 40	37	53.36 N.	1645.9	74	12	10.12 W.	238.
S 40	38	04.86 N.	149.9	74	11	54.87 W.	1289.3
Position.			Center of Baltimore and Ohio Bridge Pier.				
40	38	15.31 N.	472.3	74	11	47.97 W.	1125.9
A' 40	38	30.92 N.	953 7	74	11	30.63 W.	719.8

LATITUDE.			Seconds in meters.	LONGITUDE.			Seconds in meters.
Degrees.	Minutes.	Seconds.		Degrees.	Minutes.	Seconds.	
B' 40	38	45.38 N.	1399.8	74	11	09.79 W.	229.9
C' 40	38	47.13 N.	1453.7	74	10	55.42 W.	1301.8
D' 40	38	30.79 N.	949.7	74	08	36.68 W.	861.9
E' 40	38	36.89 N.	1137.9	74	08	00. W.	0.0
F' 40	38	31.37 N.	967.6	74	07	35.15 W.	825.8
G' 40	38	52.66 N.	1624.3	74	06	36.94 W.	867.9
H' 40	38	52.66 N.	1624.3	74	05	37.88 W.	889.8
I' 40	39	05.05 N.	155.77	74	05	14.64 W.	343.09
J' 40	39	04.94 N.	152.38	74	03	22.25 W.	522.65
K' or							
AA 40	42	00. N.	0.0	74	01	36.50 W.	857.0
BB 40	43	04.68 N.	144.36	74	01	26.59 W.	624.07
CC 40	45	26.82 N.	827.30	74	00	52. W.	1219.66
DD 40	49	26.82 N.	1096.61	73	57	50.38 W.	1180.6
EE 40	51	03.62 N.	111.67	73	57	11.69 W.	273.78
FF 40	53	19.05 N.	587.64	73	55	48.77 W.	1141.7
GG 40	55	40.03 N.	1243.13	73	54	52.82 W.	1235.61
HH 40	56	48.22 N.	1487.48	73	54	33.35 W.	780.06
II 40	58	54.39 N.	1677.82	73	53	47.63 W.	1113.58
JJ 40	59	49.74 N.	1534.38	73	53	38.57 W.	901.46

*Second.*—The monumental marks by which said boundary line shall hereafter be known and recognized have been carefully described, their absolute geographical positions given, and this description and location will be filed in the office of the secretary of state of New York and the secretary of state of New Jersey.

*Third.*—The maps accompanying and filed with this agreement, showing the location of the above mentioned boundary line between the state of New York and the state of New Jersey in lands under water in Arthur kill, Kill von Kull, New York bay and the Hudson river, and of the monumental marks by which such line may be distinguished and known, duly authenticated and attested by the signatures of the aforesaid commissioners, and placed on file in the offices of the secretaries of state of the respective states, shall constitute the permanent and authenticated record of said boundary line, and are hereby adopted by the parties hereto and made part of this agreement.

In witness whereof, the said commissioners have hereto set their hands and seals in duplicate, this twenty-third day of December, in the year of our Lord eighteen hundred and eighty-nine.

M. W. HAZELTINE, [L. s.]

ROBERT MOORE, [L. s.]

G. O. HANUS, [L. s.]

R. C. BACOT, [L. s.]

W. M. OLIVER, [L. s.]

E. A. STEVENS, [L. s.]

*Attest:*

EDWARD P. DOYLE,

*Secretary Joint Boundary Commission.*

§ 9. **Restoration of monuments.**—The state engineer and surveyor shall during the year 1893, and every third year thereafter, cause to be made an examination and inspection of all the monuments of the state boundary, and make a detailed report thereof to the legislature. The state engineer and surveyor, in co-operation with persons duly authorized by the adjoining state, shall restore or replace all injured, displaced or removed monuments, and cause suitable stone monuments to be set wherever such are now lacking at the points where such state boundary is intersected by the boundary of any towns or counties of this state, or by any highway.

§ 10. **Saving clause.**—This article shall not be construed as a relinquishment by the state of New York of any territory to which it now has title, or over which it now has jurisdiction.

§ 11. Defense of state sovereignty and jurisdiction.— The governor shall, at the expense of the state, employ counsel and provide for the defense of any action or proceeding, instituted against the state, or against any person deriving title therefrom, to recover any lands within the state, under pretence of any claim inconsistent with its sovereignty and jurisdiction.

## ARTICLE II.

### CESSIONS TO THE UNITED STATES.

- SECTION 20. Cession without reservation; Little island in Hudson river.
21. Authorization of acquisition and cession of jurisdiction thereupon without reservation.
  22. Cession with reservation of right to serve process.
  23. Authorization of acquisition and cession of jurisdiction thereupon, with reservation of right to serve process.
  24. Cession during ownership by the United States, with reservation of right to serve process.
  25. Authorization of acquisition, and cession of jurisdiction thereupon during ownership by the United States, with the reservation of the right to serve process.
  26. Cession during ownership by the United States, and use for public purposes, with reservation of the right to serve process.
  27. Authorization of acquisition by the United States, and cession of jurisdiction thereupon during ownership by the United States, and use for public purposes, with reservation of the right to serve process.
  28. Cession during use for purposes thereof, with reservation of the right to serve process.
  29. Authorization of acquisition and cession of jurisdiction thereupon during use for purposes thereof, with reservation of the right to serve process.
  30. Authorization of acquisition and cession of jurisdiction thereupon, with reservations of concurrent jurisdiction and right to serve process.
  31. Cession during ownership by the United States, and use for purposes thereof, with sundry reservations.
  32. Cession during use for purposes thereof, with sundry reservations.
  33. Cession with sundry reservations.
  34. Cession during use for purposes thereof, with sundry reservations.
  35. Cession of jurisdiction to lands acquired for light-house purposes.
  36. Acquisition by condemnation.
  37. Saving clause.

§ 20. Cession without reservation, Little island in Hudson river.— Title and jurisdiction has been ceded to the United States by this state to a tract of land known as Little island, in the Hudson

river, opposite New Baltimore, acquired by the United States for a light-house site and keepers' dwellings.

§ 21. **Authorization of acquisition and cession of jurisdiction thereupon without reservation.**—The United States has been authorized to acquire the following tracts or parcels of land, and jurisdiction thereof has been ceded to the United States by this state upon such acquisition :

1. **On the Long Island coast.**—Certain tracts of land on the Long Island coast, each tract not exceeding one-half acre in area, for building sites for life-saving stations.

2. **Priming Hook, Columbia county.**—A tract of land one-half acre in area at Prymon's Hook, otherwise called Priming Hook point, Columbia county, for a site for a beacon light.

3. **Calver's plat, Columbia and Rensselaer counties.**—A tract or parcel or land consisting of one acre of the south point of the island known as Calvers plat. Said island lies in the Hudson river, part in the county of Columbia, and part in the county of Rensselaer, and in the town of Schodack; the said acre conveyed under this title is bounded as follows: Beginning at a stake and stones at the south point of said Calvers plat, and runs north to stake and stones at a point on the west side of said island, 6 chains; thence S. 85.5° E., 3 chains to high-water mark, to the water's edge on the east shore of said island; then S. 12.25° W., 3 chains and 11 links to a point on the shore; thence S. 73.75° W., 1 chain and 75 links to a point on the shore; thence S. 35.5° W. 2 chains and 30 links to the place of beginning at the south point of said island, for the construction and maintenance of a light-house, beacons and keepers' dwellings.

4. **Near Mull's plat, Rensselaer county.**—A tract or parcel of land lying in the Hudson river, in the county of Rensselaer, and state of New York, lying north of a line running S. 76° 45' E., and more particularly described as follows, viz. : Beginning at a stake set up at the west side of an island known as Mull's plat, on a course of S. 76° 45' E. from the northeast corner of Barrent Ten Eyck's brick house, now occupied by Thomas C. Houghtailing, and runs from the said stake along a line of marked trees standing on the north point of an island known as Parcey's island, and now in the possession of the parties of the first part, and then runs from the aforesaid stake S. 76° 45' E., 6 chains and 60 links to the water's edge on the east side of the aforesaid island; then northerly along the water's edge and east side thereof, to the north point of the aforesaid island; then southerly along the water's edge and west



side to the place of beginning, containing an acre of land, be the same more or less, for the construction and maintenance of a light-house, beacons and keepers' dwellings.

**5. Poplar island, Rensselaer county.**—A tract or parcel of land in the town of Schodack, county of Rensselaer, and on the north end of an island known by the name of Poplar island, bounded and described as follows, viz.: Beginning at a stake set upon the west shore of the aforesaid island, and on a course of S.  $78^{\circ} 30'$  E. from the northeast corner of William O. Lawton's brick store, and runs thence from the said stake, N.  $78^{\circ} 30'$  E., 3 chains and 60 links to a stake on the east side of said island; then along the east side thereof, N.  $9^{\circ}$  W., 3 chains and 59 links, to a point on the north end of the aforesaid island; then S.  $80^{\circ}$  W. 2 chains, to a point on the north and west shore of said island; then along the west shore thereof, S.  $14^{\circ} 15'$  W., 4 chains and 4 links, to the place of beginning, containing one acre of land be the same more or less, for the construction and maintenance of a light-house, beacons and keepers' dwellings.

**6. Water supply at West Point.**—Such tracts of lands, lands under water, rights of way and easements, at or near the United States military post at West Point, as have been acquired or may be required for the purpose of increasing the water supply of such post, the commanding officer of said post being authorized to enter upon any lands to make surveys thereof for such purpose.

**§ 22. Cession with reservation of right to serve process.**—Title and jurisdiction to the following described tracts or parcels of land have been ceded to the United States by this state on condition the jurisdiction so ceded should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein:

**1. Montock point, Suffolk county.**—A tract of land at Montock point, in the county of Suffolk, known by the name of Turtle hill, and bounded as follows: "Beginning at the beach, and at a rock laying on a hommock, at the bottom of the said hill, and runs thence N.  $82^{\circ}$  W., 11 chains and 58 links; thence S.  $5^{\circ}$  W. 5 chains; thence S.  $15^{\circ}$  E., 9 chains, to a rock marked John Champlain, 1788; thence on the same course to low water mark; thence northeasterly along low water mark, until the point of beginning bears N.  $82^{\circ}$  W.; thence to the place of beginning," acquired for the erection of a light-house thereon.



2. In Huntington, Suffolk county.—“All that certain lot, piece or parcel of land at the northern extremity of Eaton's neck, in the town of Huntington, in the county of Suffolk, beginning at the northernmost point thereof, upon the shore at high water, which is distant from a stone fixed in the ground and bears N.  $12^{\circ}$  W., 2 chains and 24 links; thence along the high water line of the shore S.  $75^{\circ}$  W., 12 chains 75 links; thence S.  $12^{\circ}$  E., 2 chains 45 links to a stone fixed in the ground; thence S.  $12^{\circ}$  E., 2 chains 58 links; thence S.  $36^{\circ}$  E., 2 chains and 70 links; thence S.  $63^{\circ}$  E. 1 chain 82 links; thence N.  $70^{\circ}$  E. 10 chains 17 links; thence N.  $12^{\circ}$  W., to the stone first mentioned 5 chains 62 links; thence N.  $12^{\circ}$  W., 2 chains and 24 links to the place of beginning, containing ten acres,” acquired for the erection of a light-house thereon.

3. Islands in New York harbor.—Three certain islands in and about the harbor of New York, viz.: Bedlow's island and Ellis or Oyster island, bounded on all sides by the waters of the Hudson river, and Governor's island, bounded on all sides by the waters of the East river and Hudson river.

4. Great Gull and Little Gull islands, Suffolk county.—Great Gull island and Little Gull island, in the county of Suffolk, and bounded on all sides by the waters of the East river\*, acquired for the erection of a light-house thereon.

5. Sands or Watch Point, Queens county.—A tract of land at Sands or Watch Point, on Long Island, in the town of North Hempstead, county of Queens, described as follows: “Beginning on the easterly side of said point, at a place or point in the line of ordinary high water mark, being N.  $56^{\circ}$  E., from a large walnut or hickory tree, marked on three sides, standing upon the upland, and running thence (from the said point in high water mark) across the said point of land on a course S.  $56^{\circ}$  W., so as to pass about four feet southerly of a small marked buttonwood tree, standing on the bank, and passing through the center of the said walnut or hickory tree marked on three sides, and through the center of a high white oak tree marked on two sides, to ordinary high water mark on the westerly side of said point of land; and thence to the line of ordinary high water mark to and around the said point of land to the point or place of beginning, in the line of ordinary high water mark on the easterly side of said point of land, containing five acres of land, be the same more or less,” acquired for the erection of a light-house.

6. Galoo island. Lake Ontario.—A tract of five acres on the

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\* So in the original.

head of Galoo island, in Lake Ontario, "commencing 75 links S. 45° E., from a large oak tree standing on the lake shore at a stake and stones marked U. S., from thence S. 45° W., 12 chains and 90 links to a cedar stake and stones marked U. S., from thence northwesterly along the lake shore 11 chains and 80 links to a point, on the edge of a large flat rock 2 chains due south from the centre of the spot fixed on for a light-house, from thence N. 45° W., 2 chains and 65 links on a flat rock, from thence N. 45° E., 5 chains and 80 links to the place of beginning," acquired for the erection of a light-house thereon.

7. **Island near Rouse's Point, Lake Champlain.**—A small island near Rouse's Point, on Lake Champlain, called Island Point; and also over the land under the water opposite to lots number 60, 61, 62, 63, 64, 65 and 66 of the small lots in the tract of land heretofore laid out for the Canadian and Nova Scotia refugees: "Beginning on the west shore of Lake Champlain, in the line run for the north bounds of this state, and running thence east, to the distance of 500 feet from low water's mark; thence southerly, keeping at the said distance of 500 feet from low water's mark of said shore of Lake Champlain, and the shore of said island, until a west course will strike the southwest corner of the said lot number sixty-six, then west to the same, and then northerly, following the shore of the said lake, and the shore of the said island, to place of beginning."

8. **At mouth of Oswego river.**—A tract of six acres at the mouth of the Oswego river, and on the southerly side of the Oswego fort, in the county of Oswego, bounded as follows, viz.: "Beginning at a stake and stones marked L. H. standing S. 35° W., 82 links, from the southwest angle of the fort; thence S. 75° E., 9 chains and 20 links, to a stake and stones marked L. H. thence S. 15° W., 7 chains 35 links, to a stake and stones marked L. H., thence N. 75° W., 7 chains and 65 links, to a stake and stones marked L. H., standing on the bank of the lake; thence northerly along said bank, to a point where the north line of the lot intersects said bank; thence southeasterly along said line about 48 links, to the place of beginning," acquired for the erection of a light-house thereon.

9. **At mouth of Genesee river.**—A tract of three acres and 115 rods, at the mouth of the Genesee river, on the west side thereof, being part of village lot number twenty-eight, in the village of Charlotte, in the former town of Gates, and county of Monroe, bounded as follows: "Beginning at the easterly side of Main street, at a stake and stones one chain southerly from the north-

easterly corner of said lot number twenty-eight, running thence S.  $61^{\circ} 45'$  E., 2 chains and fifty links, to a stake and stones; thence N.  $28^{\circ} 15'$  E., 1 chain, to the northerly line of said lot; thence S.  $61^{\circ} 45'$  E., 8 chains and 48 links, to the said river; thence S.  $26^{\circ}$  W., along the said river, 2 chains to a stake and stones; thence N.  $61^{\circ} 45'$  W., 2 chains and 50 links, to a stake and stones; thence S. 2 chains, to the southerly line of said lot number twenty-eight; thence N.  $61^{\circ} 45'$  W., 8 chains and 63 links, along the said line, to the said Main street; thence N.  $28^{\circ} 15'$  E., 3 chains to the place of beginning, containing three acres and 150 rods," acquired for the erection of a light-house thereon.

10. **In Sodus, Wayne county.**—A tract in the town of Sodus in the county of Wayne, bounded as follows: "Beginning on the shore of Lake Ontario, on the east bounds of Ontario street, running thence south on the said east bounds of the street 9 chains and 16 links, to a cedar post at the north end of Captain Wickham's board fence; thence N.  $63^{\circ} 40'$  E., 4 chains and 23 links, to a cedar stake near the south point of the bank on the north side of the flat; thence N.  $40^{\circ}$  E., 3 chains and 37 links, to the shore of the lake; thence along the shore N.  $36^{\circ} 30'$  W., 3 chains and 85 links; thence N.  $66^{\circ}$  W., 3 chains and 98 links, to the place of beginning; containing three acres and one-fourth, and thirty perches of land," acquired for the erection of a light-house thereon.

11. **At Buffalo, Erie county.**—A tract of half an acre in Buffalo, Erie county, described in a deed thereof, executed by Joseph Ellicott, as attorney for the grantors, to the United States as follows: "All that certain tract of land, situate, lying and being in the village of Buffalo, in the county of Niagara and state of New York, being part or parcel of a certain township which, on a map or survey of divers tracts or townships of land made for the proprietors by Joseph Ellicott, surveyor, is distinguished by township number eleven, in the eighth range; beginning at a stone in the northern bounds of outer lot number thirty-six, in said village, standing N.  $48^{\circ}$  E., 54 links from the northwest corner of said lot, thence bounding on land conveyed to Joseph and Benjamin Ellicott, by deed bearing date February 29, 1812, N.  $48^{\circ}$  E., 6 chains and 1 link to the southwestern bank of Buffalo creek; thence bounding on the said bank of the said creek, N.  $87^{\circ}$  W., 1 chain and 27 links; thence by a line parallel to the northern bounds of said lands conveyed to Joseph and Benjamin Ellicott by deed as aforesaid, S.  $48^{\circ}$  W., 5 chains and 11 links to a stone, and thence S.  $42^{\circ}$  E., 90 links, to the

place of beginning, containing half an acre, be the same more or less," acquired for the erection of a light-house thereon.

12. At Oldfield point, Suffolk county.—A tract of land at Oldfield point, on Long Island sound, in the county of Suffolk, bounded as follows: "Commencing at a stake at high water mark, from thence running a course S.  $49^{\circ} 20'$  W., 788 feet, to a cherry tree and fence; thence down along the fence a course N.  $30^{\circ} 18'$  W., from the cherry tree to high water mark, 245 feet; thence the same course, to low water mark; thence along the sound at low water mark, a northerly and easterly course round the point, to a place opposite to the place of beginning; and thence the first mentioned course, to the stake or place of beginning," acquired for the erection of a light-house thereon.

13. At Throg's neck, Westchester county.—A tract of land at Throg's neck, in the county of Westchester, bounded as follows: "Commencing at high water mark, and running a course N.  $36^{\circ} 30'$  E., to a certain painted rock, and from thence the same course to high water mark, being 766 feet; thence southerly and westerly around the point, to a painted rock at low water mark; thence the first mentioned course, to the place of beginning," acquired for the erection of a light-house thereon.

14. In New Utrecht, Kings county.—A tract of land in the town of New Utrecht, Kings county, described as follows: "Beginning at the bay or river on the division line of the hereby described premises, and land now or late belonging to Jane Smith, and running thence along the said division line N.  $58^{\circ}$  E., 1 chain and 50 links, to a certain stake standing on the bank; thence along the said line N.  $37^{\circ}$  E., 67 chains and 80 links, to certain lands now or late belonging to John S. Denyse; thence along the last mentioned lands S.  $57^{\circ}$  E., 3 chains and 92 links, to certain lands now or late belonging to Isaac Cortelyou; thence along the last mentioned lands and along certain lands now or late belonging to Jaques Cortelyou, S.  $28^{\circ}$  W., 37 chains 42 links; thence along the last mentioned lands the five following courses, to wit, S.  $38^{\circ} 40'$  W., 23 chains, to a certain rock; thence S.  $41^{\circ}$  W., 4 chains 47 links; thence S.  $25^{\circ}$  E., 3 chains and 25 links; thence S.  $64^{\circ}$  W., 7 chains 43 links; thence S.  $41^{\circ}$  W., 1 chain and 30 links, to the bay or river aforesaid; thence northwesterly along the said bay or river, to the place of beginning; containing sixty acres, one rood and six perches of land;" and the second of which is bounded as follows: "Beginning at the southeasterly point of the land next before described, thence N.  $62^{\circ}$  E., 180 yards;

thence N. 20° W., 75 yards; thence N. 42° E., 310 yards; thence S. 60° E., 242 yards; thence S. 25° W., 160 yards; thence N. 60° W. about 185 yards, to a point near a pond; thence S. 33° W., 195 yards; thence S. 53° W., 220 yards, to the bay or river; thence along the said bay, 90 yards, to the place of beginning; according to a plat and survey thereof, containing sixteen acres and one-half acre of land," acquired for the erection of fortifications thereon.

15. In New Utrecht, Kings county.—A tract of land in the town of New Utrecht, Kings county, described as follows: "Beginning at the water's edge at the southeast point of the first parcel of land above described; thence N. 41° E., 1 chain and 30 links; thence N. 64° E., 7 chains and 43 links; thence N. 25° W., 3 chains and 26 links; thence N. 41° E., 4 chains and 47 links; thence N. 38° 40' E., 9 chains and 10 links; thence S. 60° E., 11 chains and 69 links; thence S. 25° W., 7 chains and 28 links; thence N. 60° W., 8 chains and 41 links; thence S. 35° W., 8 chains and 86 links; thence S. 53° W., 10 chains; thence along the water's edge, to the place of beginning; containing seventeen acres, fourteen perches and one hundred and five yards of land," acquired for the erection of fortifications thereon.

16. In Islip, Suffolk county.—A tract of land and beach, in the town of Islip, in the county of Suffolk, being the west end of the east branch of Fire-island inlet, "beginning on the southerly side of the same, at low water mark, on the Atlantic ocean, in a range of branched stakes; thence north thirty-two chains, to low water mark on the Great South bay, including all the land to the west of the said north line to Fire-island inlet aforesaid, at low water mark," acquired for the erection of a light-house thereon.

17. In Haverstraw, Rockland county.—A tract of land in the town of Haverstraw, in the county of Rockland, being the extreme point of land called Stony-Point, on the Hudson river, "beginning at the river at high water mark, on the south side of the point, at a stake, thence across the point, north four degrees west, (passing thirty-five links to the west of the fort) to the river at high water mark; thence along the same at high water mark round the point to the place of beginning," acquired for the erection of a light-house or beacon thereon.

18. In Cornwall, Orange county.—A certain tract of land in the town of Cornwall, in the county of Orange, described as follows: "Beginning at the northeasterly corner of the piece of land herein intended to be described, at the mouth of a small creek which enters

into the Hudson river near the old stores, and thence up and along the southeasterly side of the said creek to its intersection with the northeasterly side of the road leading from West-Point to John Cronkhite's; thence southeasterly along the northeasterly side of the said road to its intersection with the road which leads from West-Point southerly to the Widow Kinsley's; thence from said point of intersection due south, to a point 7 chains south of the line which divides the Gridley farm from the post of West-Point; thence S.  $81^{\circ}$  E., to the Hudson's river, on a line parallel with the said division line; and from thence northwardly along the low water mark of the said river, to the place of beginning, containing two hundred and twenty acres or thereabouts."

19. **In Lyme, Jefferson county.**—A certain tract of land in the town of Lyme in the county of Jefferson, being the extreme point of land called Tibbets' point, described as follows: "Beginning at a stake standing on the extreme point thereof, on the bank of Lake Ontario; thence N.  $7^{\circ}$   $30'$  E., 5 chains to a basswood sapling cornered; thence S.  $82^{\circ}$   $30'$  E., 5 chains and 50 links to a stake cornered, 10 links southwesterly from a maple tree blazed; thence S.  $7^{\circ}$   $30'$  W., 7 chains and 50 links to a stake on the bank of Lake Ontario, 9 links southerly from a walnut tree blazed; thence N.  $49^{\circ}$   $45'$  W., 5 chains and 99 links to an angle; thence S.  $70^{\circ}$   $30'$  W., 97 links to the place of beginning, containing two acres and ninety-six hundredths of an acre of land," acquired for the erection of a light-house thereon.

20. **On Plumb island, Suffolk county.**—A tract of land containing three acres, on the south side of the west end of Plumb island, in the county of Suffolk, and described as follows: "Beginning at low water mark, opposite a rock on the edge of the upland, marked U. S. 1826, and running thence north four degrees east, six chains and three links to a stake on the hill; thence running south seventy-nine degrees west, over a rock at the bottom of the bank marked U. S. to the west point of said island to low water mark; thence south-eastwardly along the shore at low water mark to the place of beginning, opposite to the first mentioned rock, butted and bounded northwardly and eastwardly by lands of Richard Jerome; southwardly and westwardly by the waters of Gardiner's bay and Plumb-Gut;" acquired for the erection of a light-house thereon.

21. **On North Brothers island, Queens county.**—A tract of land at the western extremity of North Brothers island, in Long Island sound, county of Queens, containing not less than one nor more than five acres, acquired for the erection of a light-house thereon.



**22. In Esopus, Ulster county.**—A tract of land under water in the town of Esopus, Ulster county, at or near the junction of the Roundout and Hudson rivers, not exceeding two acres in area, acquired for the erection of a light-house or beacon light thereon.

**23. At Esopus meadows, Ulster county.**—A tract of land in the town of Esopus, in the county of Ulster, at a place called the Esopus meadows or flats, in the Hudson river, and covered with the waters, and which is described as follows: Beginning at a point on the west side of the channel of the Hudson river, on the edge of the said channel, in eighteen inches water at low water, from whence a course S. 2° E. will strike the northwest corner of Governor Lewis's dock, and a course N. 2° E. will strike the window in the store on Thompson's dock, and a course S. 43° E. will strike the northeast corner of Emmet's house, and a course N. 65° W. will strike a small house on the west side of the river, occupied by Henry Terpenning, and a course S. 27° W. will strike the store on Degraff's dock; thence from said point down the river five chains; thence towards the west bank of the river at right angles to the first course five chains; thence with a course parallel to the first course five chains; thence with a course parallel to the second course five chains, to the place of beginning, acquired for the erection of a light-house thereon.

**24. In the city of Buffalo, Erie county.**—A tract of land in the city of Buffalo on the east side of the Niagara river, described as follows: Beginning at the point of intersection of the westerly line of the Lockport and Buffalo railroad with the southerly line of lot number eight of the state reserve; thence N. 82° 10' W., 75 feet, more or less, to the towing path of the Erie canal enlargement; thence N. 2° 10' E., 75 feet; thence S. 82° 10' E., 75 feet, more or less, to the Lockport and Buffalo railroad; thence S. 2° 10' W., 75 feet, to the place of beginning, acquired for the erection of a light-house or beacon thereon.

**25. In the bay of New York.**—A tract of land, being such portion of the lands under water comprising what is known as West bank, in the lower bay of the port of New York, and Old Orchard shoals, required and occupied by the United States in the erection thereon of wharves and warehouses for the reception of goods and merchandise arriving in such port in vessels subject to quarantine by the laws of this state.

**26. David's island, New Rochelle.**—A tract of land situate in the harbor of New Rochelle, and known as David's island, acquired by the United States to be used for military purposes.

**27. At West Point, Orange county.**—Certain tracts of land at West Point, Orange county, acquired by the United States prior to May 15, 1875, for the erection and maintenance thereon of forts, arsenals, docks and piers, military academy, hospitals and other needful buildings, and for the maintenance of the national cemetery and an observatory.

**§ 23. Authorization of acquisition and cession of jurisdiction thereupon, with reservation of right to serve process.**—The United States has been authorized to acquire the following tracts or parcels of land, and jurisdiction thereof has been ceded to the United States by this state upon such acquisition, on condition that such jurisdiction should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein :

**1. At Bluff point, Staten Island.**—A tract at Bluff point, Staten Island, for the erection of fortifications thereon.

**2. On Staten Island.**—Certain lands on Staten Island belonging to the state of New York and used for military purposes, prior to February 6, 1886, required by the United States for the construction and maintenance of proper defenses for the protection of the harbor of New York, and which the commissioners of the land office have been authorized to convey accordingly.

**3. At Black Rock, Erie county.**—A tract or tracts of land in the south village of Black Rock, at or near Buffalo, being so much of blocks Nos. 167, 168 and 186, in such village, required for the site of barracks and defensive works.

**4. At sundry places for light-house purposes.**—Certain tracts of land, and land under water, for the construction and maintenance of light-houses, beacon lights and keepers' dwellings :

For a beacon or range light on Staten Island, in the rear of the Elm Tree beacon, to serve as a range for the Swash channel.

For a light-house on Point au Roche, on the west side of Lake Champlain.

For three beacons in North river—one at the south point of the island east of Barren Island; one at the north point of the island opposite and east of Cocymans' bar; and one on the point of the island at the mouth of Schodack channel, and opposite Mall rocks.

For a beacon to be placed on the extreme eastern point of the north fork of Long Island.

For a light-house on or near Carlton head, in the St. Lawrence river.



For a beacon light on south end of Cow or Campbell's island, in the Hudson river, near Castleton.

For a beacon light on Little island, in the Hudson river, near New Baltimore.

For a beacon light at Priming Hook point, east side of Hudson river, north of Hudson city.

For a beacon light west side of Hudson river, between Athens and Catskill.

For a first-class light-house near "Great West bay," Suffolk county, Long Island, New York.

For a beacon light at Lloyd's harbor, Suffolk county, Long Island, New York.

For a light-house at Horton's point, Suffolk county, Long Island, New York.

For light-house at Race point, Fisher's island, Suffolk county, New York.

For a light-house at or near Windmill point, Lake Champlain, New York.

For a beacon light on "Isle au Motte," Lake Champlain, New York.

For nine beacon lights near Whitehall, Lake Champlain, New York.

On Fisher's island, eastern end of Long Island sound, New York, ten and three-tenths acres, more or less. On Barber's point, Lake Champlain, New York, nine acres, more or less. On Bluff point, Valcour island, Lake Champlain, New York, two acres, more or less. On the west bank of Oak Orchard creek, near its mouth, in Orleans county, purchased from Abram V. Clark of the same county, one-half acre, more or less; and at Fair Haven, Cayuga county, New York five acres or less.

For a light-house on North Brother island or vicinity, East river, New York.

For a light-house on Hart island or vicinity, western end of Long Island sound, New York.

For a light-house at or near Crown Point, Lake Champlain, New York.

For a light-house site and keeper's dwelling on Cumberland head, in the county of Clinton, not exceeding ten acres, adjoining the site occupied by a light-house in 1872.

For a light-house and other light-house purposes on Lake Ontario, in the town of Somerset, county of Niagara.

For light-houses on the Hudson river, at Tarrytown, Livingston creek and in Persey's reach, between Catskill and Hudson.

**5. At Suspension Bridge.** — A tract of land in the village of Niagara city, New York, described as follows: Beginning at the north-east intersection of Bridge and Spring avenues, and running in a northerly direction along said Spring avenue eighty-six feet and seven inches; thence running easterly in a line parallel with the line of Bath avenue sixty-four feet, more or less, to a point sixteen feet from the lands of the New York Central Railroad Company; thence northerly to Bath avenue, parallel with and distant sixteen feet from the said lands of the New York Central Railroad Company; thence easterly along Bath avenue sixteen feet; thence southerly 117 feet eleven inches more or less, to the line of Bridge avenue; and thence westerly along the line of Bridge avenue seventy-five feet, to the point or place of beginning, for the purpose of a custom-house and post-office.

**6. At Oswego.** — A tract of land in the city of Oswego, described as follows: Commencing at the southwestern angle of the cut stone work of the United States pier, runs thence S.  $3^{\circ}$  W., 7 feet, to the east side line of Third street; thence S.  $17^{\circ}$  E. along said street line, 36 feet; thence S.  $87^{\circ}$  E., 115 feet; thence N.  $3^{\circ}$  E., 261 feet, to a point in the west line of Second street prolonged; thence N.  $17^{\circ}$  W., along said Second street, 120 feet to the northerly side of the United States pier; thence S.  $56^{\circ} 30'$  W., along the northern line of said pier, 110 feet, to the northwestern angle thereof; thence S.  $17^{\circ}$  E., along the westerly side of said pier, 250 feet, to the place of beginning, for the purpose of erecting, repairing and maintaining a pier for the protection of the harbor of Oswego.

**7. At Oswego.** — A tract of land in the north end of blocks four and five, of military lot number five, in the first ward of the city of Oswego, and described as follows: Beginning at a point on the margin of Lake Ontario, 164.35 feet S.  $88^{\circ} 14'$  E. of the point of intersection of the west line of Fourth avenue with the east side of the new pier, and running thence S.  $3^{\circ} 30'$  W., parallel to the line of Fourth avenue, 155.02 feet to a nail in a stake, marked "U. S.;" thence N.  $86^{\circ} 30'$  W., at right angles with the last mentioned line, and with the line of Fourth avenue, and passing through a nail in a stake on the west line of Fourth avenue 150 feet, from its intersection with the east line of the pier, 406.25 feet, to a nail in a stake, marked "U. S.;" thence N.  $3^{\circ} 30'$  E., parallel to the line of Fourth avenue, and at right angles with the last mentioned line 75.95 feet,

to a cross on a boulder on the margin of the lake; thence along the margin of the lake, at low water mark, to the place of beginning, together with all the land under water lying in front of the said above bounded and described premises; the plat so bounded containing, exclusive of the land under water, 1.201 acres of land, for occupation for the storage of materials, and as sites for offices and store houses, for the purpose of erecting, repairing and maintaining a pier, for the formation of a harbor at Oswego.

8. **At West Point, Orange county.**—A tract or tracts of land constituting, on May 15, 1888, the whole or a part of the estate of E. V. Kinsley, deceased, and to the south of and adjoining the government lands at West Point, Orange county, for the erection and maintenance of forts, magazines, arsenals, dock-yards, military academy, hospitals and other needful buildings.

9. **Round pond, Orange county.**—A tract of land and land under water known as Round pond, in the town of Highlands, Orange county, and certain lands adjacent thereto amounting in all to 49.72 acres, for increasing the water supply of West Point; and any minerals, mineral right, or right appertaining to such mineral right, in such pond, and the lands adjacent thereto, owned by the United States, and in lands through which the right of laying a water pipe from such pond to the lands of the United States at West Point, was granted prior to January 1, 1881.

10. **At Whitehall narrows, Lake Champlain.**—A tract of land under water in Whitehall narrows, Lake Champlain, at a point on the westerly edge of the channel opposite Devil's Pulpit, so called, in the town of Dresden, Washington county, described as follows: A circle 200 feet in diameter, the center of which bears from the following points as follows: From beacon No. 12, N. 45° 30' E.; from beacon No. 15, S. 37° W.; From Devil's Pulpit, S. 60° E.; from Pulpit point, N. 50° E., for the purpose of erecting a light-house thereon, and which the commissioners of the land office have been authorized to convey accordingly.

11. **At Whitestone point, Queens county.**—A tract of land twenty-five feet square, situate on the north end of Whitestone point, Queens county, for the purpose of establishing and maintaining lights or other aids to navigation thereon.

12. **On Riker's island, East river.**—A tract of land of the area of a circle of twenty-five feet in diameter, on the northwest point of Riker's island, East river, for the purpose of establishing and maintaining lights or other aids to navigation thereon.

13. **At Spuyten Duyvil.**—Certain tracts of land, or land under water, necessary for the improvement of the Harlem river and Spuyten Duyvil creek, and for the construction of a channel, from the North river to the East river, through the Harlem kills.

14. **In the city of New York.**—A certain tract or tracts of land in the city of New York, being such parts of the City Hall park, as have been conveyed to the United States by the mayor, aldermen and commonalty of the city of New York; except such part of such land as may have been reconveyed by the United States to the mayor, aldermen and commonalty of the city of New York.

§ 24. **Cession during ownership by the United States, with reservation of right to serve process.**—Title and jurisdiction to the following tracts or parcels of land have been ceded to the United States by this state, on condition that the jurisdiction so ceded should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein, and that such jurisdiction shall continue in the United States so long only as the land shall remain the property of the United States:

1. **At West Point.**—A tract of land under water described as follows: Beginning at a point at high water mark on the west shore of the Hudson river on south line of lands belonging to the United States and northeast corner of lands belonging to Edward V. Kinsley, and running thence into the river from high water mark S.  $70^{\circ}$ , E. 125 feet; thence N.  $31^{\circ}$  E., 3165 feet, to a point fifty feet east of the most easterly point at high water mark of a point of land at base of "Battery Knox;" thence N.  $20^{\circ}$  E., 1850 feet, to a point sixty feet east of high water mark at "Gee's Point;" thence N.  $52^{\circ}$   $20'$  W. 1375 feet; thence N.  $75^{\circ}$   $30'$  W. 445 feet, to a point fifty feet north of the northwest corner of the "North dock;" thence N.  $47^{\circ}$   $25'$  W. 2175 feet, to a point three hundred feet east of high water mark; thence N.  $23^{\circ}$   $45'$  W. 1420 feet, to a point one hundred feet east of high water mark; thence N.  $7^{\circ}$   $55'$  W. 1718 feet, to a point fifty feet east of high water mark; thence N.  $9^{\circ}$   $5'$  W. 1803 feet, to a point one hundred feet east of high water mark, and in range with the north line of the United States lands; thence N.  $89^{\circ}$   $20'$  W. 100 feet, to a bolt set in a rock for the northeast corner of said lands of the United States; acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, batteries, and other needful military structures and appurtenances.

2. **At Governor's island.**—A tract of land under water contiguous to the lands of the United States at Governor's island, described as follows: Beginning at a point fifty feet from the head of the main wooden dock, commonly known as the quartermaster's dock and on a line with the north face of said dock, running thence S.  $5^{\circ} 18'$  W. 137 feet; thence S.  $14^{\circ} 44'$  W. 595 feet; thence S.  $29^{\circ} 25'$  W. 490 feet; thence S.  $53^{\circ} 58'$  W. 622 feet; thence N.  $78^{\circ} 27'$  W. 1088 feet; thence N.  $18^{\circ} 55'$  W. 1,565 feet; thence N.  $17^{\circ} 4'$  E. 535 feet; thence N.  $79^{\circ} 58'$  E. 318 feet to a point fifty feet from the head of the Castle William's dock and on a line with the west face of said dock; thence N.  $89^{\circ} 48'$  E. 584 feet; thence S.  $74^{\circ} 23'$  E. 786 feet; thence S.  $45^{\circ} 44'$  E. 751 feet to a point fifty feet from the head of the stone dock, and on a line with the north face of said dock; thence S.  $20^{\circ} 33'$  E. 222 feet to the point of beginning, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries and other needful structures and appurtenances.

3. **At Bedloe's island.**—A tract of land under water contiguous to the lands of the United States at Bedloe's island, described as follows: Beginning at a point fifty feet from the head of the main dock or wharf and on a line with the southwest face of said dock; running thence S.  $41^{\circ} 13'$  W. 424 feet; thence N.  $72^{\circ} 13'$  W. 423 feet; thence N.  $24^{\circ} 28'$  W. 548 feet; thence N.  $20^{\circ} 19'$  E. 639 feet; thence N.  $62^{\circ} 1'$  E. 262 feet; thence S.  $27^{\circ} 7'$  E. 1255 feet, to a point fifty feet from the head of the main dock and on a line with the northeast face thereof; thence S.  $38^{\circ} 4'$  W. forty feet to the point of beginning, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries and other needful structures and appurtenances.

4. **At Ellis's island.**—A tract of land under water contiguous to the lands of the United States at Ellis island, described as follows: Beginning at a point fifty feet from the head of the east dock and on a line with the north face of said dock; running thence S.  $18^{\circ} 30'$  E. 605 feet; thence S.  $71^{\circ} 30'$  W. 202 feet; thence N.  $81^{\circ} 19'$  W. 813 feet; thence N.  $32^{\circ} 4'$  W. 178 feet, this line being parallel to the head of the west dock, and distant fifty feet from said dock; thence due north 577 feet; thence S.  $70^{\circ} 47'$  E. 424 feet to the point of beginning, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries and other needful structures and appurtenances.

5. **At David's island.**—A tract of land under water contiguous

to the lands of the United States at David's island, described as follows: Beginning at a point one hundred and fifty feet from the head of the new dock (commonly called the coal dock), and on a line with the north-west face of said dock; running thence N.  $3^{\circ} 20'$  E. 755 feet; thence N.  $79^{\circ} 5'$  E. 630 feet; thence N.  $6^{\circ} 12'$  E. 1096 feet; thence N.  $52^{\circ} 25'$  E. 552 feet; thence S.  $69^{\circ} 18'$  E. 647 feet; thence S.  $36^{\circ} 28'$  E. 604 feet; thence S.  $35'$  E. 1066 feet; thence S.  $13^{\circ} 54'$  E. 834 feet; thence S.  $23^{\circ} 55'$  W. 427 feet; thence S.  $71^{\circ} 49'$  W. 1121 feet; thence N.  $48^{\circ} 18'$  W. 1550 feet, to the point of beginning, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries and other needful structures and appurtenances.

6. **At Fort Lafayette.**— A tract of land under water contiguous to the lands of the United States at Fort Lafayette, described as follows: Beginning at a point ninety-two feet west from the prolongation of the west face of the fort, and eighty feet north from the prolongation of the north face of the said fort, running thence S.  $67^{\circ} 34'$  E. 448 feet; thence S.  $22^{\circ} 26'$  W. 448 feet; thence N.  $67^{\circ} 34'$  W. 448 feet; thence N.  $22^{\circ} 26'$  E. 448 feet to the point of beginning, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries and other needful structures and appurtenances.

7. **At Fort Hamilton.**— A tract of land under water contiguous to the lands of the United States at Fort Hamilton, described as follows: Beginning at a point at high-water mark on the western boundary line of the United States land there situate; running thence in continuation of said boundary line S.  $64^{\circ} 45'$  W. 320 feet; thence due south for 233 feet to a point seventy-five feet from head of the dock (or wharf) and on a line with the north face of said dock; thence S.  $49^{\circ} 37'$  E. 1915 feet to a point on the continuation of the southern boundary line of the said United States land; thence along said continuation N.  $21^{\circ} 10'$  E. 165 feet to a point at high-water mark, on said southern boundary line of said United States land, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries and other needful structures and appurtenances.

8. **At Fort Wadsworth.**— A tract of land under water contiguous to the lands of the United States at Fort Wadsworth (or Tomkins)\*, described as follows: Beginning at a point at high-water mark on the northern boundary line of the United States land there

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\* So in the original.



situate; running thence in continuation of said boundary line N.  $73^{\circ} 16'$  E. forty feet to low-water mark; thence in continuation of said boundary line N.  $73^{\circ} 16'$  E. fifty feet; thence S.  $48^{\circ} 23'$  E. 1073 feet; thence S.  $9^{\circ}$  E. 1652 feet; thence S.  $18^{\circ} 57'$  E. 700 feet; thence S.  $40^{\circ}$  W. 850 feet to a point on the continuation of the western boundary line of the said United States land; thence N.  $30^{\circ} 16'$  W. for 100 feet along said continuation of boundary line to low-water mark; thence N.  $30^{\circ} 16'$  W. for 350 feet along said continuation to a point at high-water mark on the western boundary line of the United States land, acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries, and other needful structures and appurtenances.

9. **At Fort Schuyler.**—A tract of land under water contiguous to the lands of the United States at Fort Schuyler, described as follows: Beginning at a point on the boundary line of the land of the United States at high-water mark on the north shore of Throgg's Neck; running thence in continuation of said boundary line N.  $21^{\circ} 10'$  E. 257 feet to low-water mark; thence in continuation of said boundary line N.  $21^{\circ} 10'$  E. sixty-three feet; thence S.  $1^{\circ} 21'$  E. 988 feet; thence S.  $41^{\circ}$  E. 1350 feet; thence S.  $77^{\circ} 24'$  E. for 906 feet; thence S.  $44^{\circ} 20'$  E. for 543 feet; thence S.  $5^{\circ} 17'$  W. for 634 feet; thence S.  $52^{\circ} 15'$  W. for 622 feet; thence N.  $63^{\circ} 19'$  W. for 698 feet; thence N.  $54^{\circ} 13'$  W., for 1728 feet; thence N.  $49^{\circ} 33'$  W. for 1065 feet to a point on the continuation of the boundary line of the said United States land at Throgg's Neck; thence on the line of said continuation N.  $21^{\circ} 10'$  E. for 77 feet to low-water mark; thence on line of said continuation N.  $21^{\circ} 10'$  E. for 123 feet to a point at high-water mark on the south shore of said Throgg's Neck and on the boundary line of the present United States land there situate; acquired for the purpose of erecting and maintaining docks, wharves, boat-houses, sea walls, batteries, and other needful structures and appurtenances.

§ 25. **Authorization of acquisition, and cession of jurisdiction thereupon during ownership by the United States, with reservation of right to serve process.**—The United States has been authorized to acquire the following tracts or parcels of land, and jurisdiction thereof has been ceded to the United States, upon such acquisition, on condition that such jurisdiction should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein, and that such jurisdiction

shall continue in the United States so long only as the land shall remain the property of the United States.

1. **At sundry places for fortifications.**—Certain tracts of land in or near Buffalo, at or near the mouth of the Genesee river, at or near Sackett's Harbor; and certain islands in the St. Lawrence river, between St. Regis and the Thousand Islands, for the sites of fortifications or defensive works.

2. **In the city of Buffalo.**—A tract or tracts of land in the city of Buffalo, not exceeding (in the whole) one acre, for the purpose of erecting a custom-house, warehouse, court-rooms, post-office, or for either or any of such purposes, and for steamboat inspectors.

3. **In the city of Buffalo.**—A tract of land in the city of Buffalo, not exceeding one acre, for the purpose of erecting a government building thereon.

4. **In Sackett's Harbor.**—A tract of land in the village of Sackett's Harbor in the county of Jefferson, and bounded as follows: Southwesterly by the main street in said village, southeasterly by lands now or late of Edmund Luff and John Warden, heretofore conveyed to them by Augustus Sackett, and on the other sides by the waters of said harbor and of Black River bay, and commonly called Navy point, and the military establishment usually called Fort Tompkins, and being the same premises heretofore conveyed to the United States of America by the executors of the late Henry Eckford, containing about three acres of land more or less, for the purpose of erecting and maintaining thereon fortifications, defensive works or buildings for officers' quarters, and other necessary government purposes.

5. **Islands in the St. Lawrence river.**—Certain islands, or parts thereof, in the St. Lawrence river, for sites for beacon lights and other necessary government purposes.

6. **North Dumplin Island.**—A tract of land in Long Island sound, called the North Dumplin or Hammock, containing about one acre, for the purpose of erecting a light-house thereon.

7. **In the city of Oswego.**—A tract or tracts of land in the city of Oswego, not (in the whole) exceeding one acre, for the purpose of erecting a custom-house, warehouse, post-office and court-room thereon.

8. **In the village of Plattsburgh.**—A tract or tracts of land in the village of Plattsburgh, not exceeding (in the whole) one acre and a half, for the purpose of erecting a custom-house, ware-house, post-office and court-rooms, or either of them.



9. **In the town of Plattsburgh.**—A tract or tracts of land in the town of Plattsburgh, Clinton county, not exceeding in all one thousand acres, for military purposes, for use as a parade ground, or for any military purposes connected with the United States military post at Plattsburgh.

10. **In the city of Utica.**—A tract or tracts of land in the city of Utica, not exceeding in all one acre, for the purpose of erecting a building thereon to be used as a post-office and court-house.

11. **In the city of Albany.**—A tract or tracts of land in the city of Albany, not exceeding one acre, for the erection of a government building thereon.

12. **In the city of Utica.**—A tract or tracts of land in the city of Utica, not exceeding one acre, for the erection of a government building thereon.

13. **In the city of New York.**—A tract of land in the city of New York, bounded by Whitehall, Pearl, Moore and Water streets, together with the buildings thereon, formerly known as the Old Produce Exchange.

14. **In the city of New York.**—A tract of land with the buildings and improvements thereon in the city of New York, bounded by Washington, West, Laight and Hubert streets, and occupied on March 16, 1883, by the United States, under lease, for customs purposes.

15. **In the city of New York.**—A tract of land in the city of New York, described as follows: Constituting the triangular piece of land, being that portion of the grounds commonly known as the Battery in the city of New York, lying westwardly of and adjoining the lands belonging to the United States on April 29, 1873, and between such lands and the slip or basin in the said Battery known as the New Whitehall boat slip.

16. **At New Brighton, Richmond county.**—A tract of land at New Brighton, Richmond county, adjoining the light-house depot as it existed on February 19, 1880, and on the west side thereof, not exceeding two acres, for the purpose of such light-house depot.

17. **In the city of Rochester.**—A tract or tracts of land in the city of Rochester, not exceeding one acre, for the purpose of erecting a government building thereon.

18. **In the city of Syracuse.**—A tract or tracts of land in the city of Syracuse, not exceeding one acre, for the erection of a government building thereon.

19. **In the city of Poughkeepsie.**—A tract or tracts of land in

the city of Poughkeepsie, not exceeding one acre, for the erection of a government building thereon.

20. **In the city of Troy.**—A tract or tracts of land in the city of Troy, not exceeding one acre, for the erection of a government building thereon.

21. **In the city of Auburn.**—A tract or tracts of land in the city of Auburn, not exceeding one acre, for the erection of a government building thereon.

22. **In the city of Hudson.**—A tract or tracts of land in the city of Hudson, not exceeding one acre, for the erection of a government building thereon.

23. **In the city of Binghamton.**—A tract or tracts of land in the city of Binghamton, not exceeding one acre, for the erection of a government building thereon.

24. **At New Lots, Kings county.**—A tract of land partly in the town of New Lots, Kings county, and partly in the town of Newtown, Queens county, containing fifteen and thirty-nine one-hundredths acres, for establishing a national cemetery.

25. **In the city of Newburgh.**—A tract or tracts of land in the city of Newburgh, Orange county, for the purpose of erecting and maintaining thereon a public building for the accommodation of the post-office and other government offices.

26. **In the city of Watertown.**—A tract or tracts of land in the city of Watertown not exceeding two acres, for the erection of a government building thereon.

27. **At Mt. McGregor, Saratoga county.**—A tract of land upon Mt. McGregor, in Saratoga county, described as follows: Commencing at the northeast corner of the lot herein granted, upon which lot is located a cottage known as the "Drexel" cottage, and at a point where an iron pin is driven into the ground, and running southerly on a line parallel with the easterly foundation of said cottage, and fifty feet distant therefrom, one hundred and forty-six feet to an iron pin driven into the ground at the southeast corner of said lot; thence westerly on a line parallel with the south foundation of said cottage and fifty feet distant therefrom one hundred and thirty-one feet to an iron pin driven into the ground at the southwest corner of said lot; thence northerly on a line parallel with the westerly foundation of said cottage and fifty feet distant therefrom, one hundred and forty-six feet to an iron pin driven into the ground at the northwest corner of said lot; thence easterly on a line parallel with the northerly foundation of said cottage and fifty feet distant

therefrom, one hundred and thirty-one feet, to the place of beginning.

§ 26. **Cession during ownership by the United States and use for public purposes, with reservation of right to serve process.**—Title and jurisdiction to the following tracts or parcels of land have been ceded to the United States by this state, upon condition that the jurisdiction so ceded should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein, and that such jurisdiction shall continue in the United States so long only as the land shall remain the property of the United States and be used for public purposes:

1. **In Cold Spring harbor, Queens county.**—A tract of land under water in Cold Spring harbor, Queens county, comprised within a circle two hundred feet in diameter, or less than one acre of surface, acquired for a site for a light-house at the middle ground in said harbor.

2. **On Staten Island.**—A tract or tracts of land on Staten Island, being such portions of the Marine Hospital grounds as have been conveyed to the United States by the commissioners of the land office for light-house and other purposes.

3. **At sundry places for light-house purposes.**—Certain tracts of land, and land under water, from time to time deeded to the United States, and occupied for the construction and maintenance of light-houses and keepers' dwellings, sketches and descriptions of which were filed in the office of the secretary of state, on or before April 20, 1874, as follows:

No. 1. **Split Rock, Lake Champlain, Essex county, New York,** containing five acres, two quarters and six perches, conveyed to the United States by deed dated the fifteenth day of July, 1837.

No. 2. **Stuyvesant, county of Columbia, New York,** containing five acres, conveyed to the United States by deed dated August thirteenth, 1828.

No. 3. **Coxsackie, county of Greene, New York,** containing five acres, conveyed to the United States by deed dated the third day of August, 1828.

No. 4. **Four Mile Point, town of Coxsackie, county of Greene, New York,** containing two acres, two roods and twenty-five rods, conveyed to the United States by deed dated the twelfth day of February, 1831.

No. 5. **Cedar-Island light, Gardiner's bay, town of Easthampton,**

county of Suffolk, New York, conveyed to the United States by deed dated the twentieth of August, 1838.

Also, for the lands lying under water, and known as submarine sites, sketches and maps of which, by metes and bounds, have been furnished by the United States were filed in the office of secretary of state, on the twentieth day of April, 1874, viz.:

No. 6. Hart's island, situated in Long Island sound, Westchester county, New York, at the south end of Hart island, under water and beyond low water mark, containing three acres and seventy-five hundredths of an acre.

No. 7. Execution Rocks, Long Island sound, one hundred feet in diameter, containing less than an acre, situated seven-eighths of one mile north of Sands Point light, and five miles to the northeast of Fort Schuyler.

No. 8. Robin's Reef, New York harbor, containing an area of less than one acre.

No. 9. Long-beach bar, entrance to Greenport harbor, Long Island, Suffolk county, New York, containing an area of less than one acre.

No. 10. Stratford shoal, Long Island sound, New York, containing an area of less than one acre.

No. 11. Race Rock, off Fisher's Island point, at the western entrance to Fisher's Island sound, Suffolk county, New York, containing an area of less than one acre.

No. 12. Hudson city, middle ground, Hudson river, opposite the city of Hudson, county of Columbia, New York, containing an area of less than one acre.

No. 13. Sangerties, on the mud flat on the north side of entrance to Sangerties creek, county of Ulster, New York, containing an area of less than one acre.

No. 14. Roah Hook, on the west side of Hudson river, behind the angle of the dyke, south of Roah Hook, New York containing an area of less than one acre.

No. 15. Parada Hook, on a point of rocks, lower end of dyke, on west side of the Hudson river, New York, containing an area of less than one acre.

No. 16. Nine-mile tree, Castleton, behind the center of dyke, on the east side of the Hudson river, New York, containing an area of less than one acre.

No. 17. Cross-over dyke, on north end of stone dyke below Albany, on the west side of the Hudson river, New York, containing an area of less than one acre.

No. 18. Cuylers' dyke, on the east side of the Hudson river, on the lower or south end of dyke, near Albany, New York containing an area of less than one acre.

No. 19. Van Wie's point, on the south end of the stone dykes below Albany, New York, on the west side of the Hudson river, containing an area of less than one acre.

No. 20. Potter's or Sea-flower reef, Fisher's Island sound, Suffolk county, New York, about one and a half miles north of Fisher's island, containing an area of less than one acre.

No. 21. Sand spit entrance to Sag Harbor, Suffolk county, Long land sound, New York, containing an area of less than one acre.

No. 22. Branford reef, abreast of Branford harbor, Long Island sound, New York, containing an area of less than one acre.

No. 23. Romer shoal, off Sandy Hook, entrance to New York harbor, containing an area of less than one acre.

No. 24. Oyster-pond \*, Plum Gut entrance to Gardiner's bay Long Island sound, Suffolk county, New York, containing an area of less than one acre.

No. 25. The Stepping Stones, about one mile south of Hart island, Long Island sound, New York, containing an area of less than one acre.

No. 26. Mill reef, opposite New Brighton, in the Kill von Kull, Richmond county, New York, containing an area of less than one acre.

§ 27. Authorization of acquisition by the United States, and cession of jurisdiction thereupon during ownership by the United States and use for public purposes, with reservation of right to serve process.—The United States has been authorized to acquire the following tracts or parcels of land, and jurisdiction thereof has been ceded to the United States upon such acquisition, on condition that such jurisdiction should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state of New York, except as such process might affect the property of the United States therein, and that such jurisdiction shall continue in the United States, so long only as the land shall remain the property of the United States and be used for public purposes.

1. In the city of New York.—A tract of land in the city of New York, fronting on Wall street, and occupied on February 7, 1857, by the United States as an assay office; and also the property north of the same, fronting on Pine street, and also the property adjoining

\* So in the original.

said Pine street property on the east, and occupied by the United States, for revenue purposes, on February 7, 1857, as offices for the surveyor for the port of New York, and also that piece or parcel of land bounded by Park row, Beekman and Nassau streets, for the purpose of a post-office.

2. In the city of New York.—A tract or tracts of land in the city of New York, and not exceeding in area fifty thousand square feet, for a site for a post-office.

3. In the city of New York.—A tract of land in the city of New York, situated in the first ward of the city of New York, and constituting the entire square formed by Wall, William and Hanover streets, and Exchange place, and the Exchange building and improvements erected thereon, covering the whole of said square, for the purpose of a custom-house.

4. In the city of New York.—A tract of land in the city of New York, being so much of land belonging to the corporation of such city, and immediately adjoining the northerly side or boundary of the land conveyed to the United States prior to January 1, 1879, by the mayor, aldermen and commonalty of the city of New York, for a site for a post-office, as is now covered by two side-walks, each 103 feet and six inches in length, by nineteen feet two inches in width, with a paved passage-way between eleven feet and eleven inches in width, making a total area of 218 feet and eleven inches in length, by nineteen feet and two inches in width.

5. In the city of New York.—A tract or tracts of land in the city of New York, not exceeding in area two hundred thousand square feet, for the purpose of an appraiser's warehouse and other purposes.

6. In the city of Brooklyn.—Certain tracts of land in the city of Brooklyn described as follows: Six lots of land with the warehouses thereon erected, in the sixth ward of the city of Brooklyn, on the south pier of the property of the Atlantic Dock Company, known as lots Nos. 53, 54, 55, 56, 57 and 58, on the said south pier of the Atlantic Dock Company, on a certain map inscribed "map of property in the sixth ward of the city of Brooklyn, port of New York, belonging to the Atlantic Dock Company, surveyed September, eighteen hundred and forty-one, by Willard Day city surveyor," said lots each being twenty-five feet front and rear, and one hundred feet deep on each side, for revenue purposes.

7. In the city of Brooklyn.—A tract or tracts of land in the city of Brooklyn, for a site for a post-office.



8. **At Hallett's point, Queens county.**—A tract or tracts of land at Hallett's point, Hell Gate, in Queens county, described as follows: Beginning at a point in the westerly line of lot number eighty-nine, and situated one hundred feet from the westerly side of Monson street, if the same were extended, and which point is three feet six inches distant from the south-west corner of said lot number eighty-nine, and running thence north-westerly, at right angles to said Monson street, 154 feet, to low water of the East river; thence along low water line with a course about north, seventy-eight degrees east, about 210 feet to a point in the prolongation of the said westerly side of Monson street, if the same were extended; thence south-westerly parallel to the westerly side of Monson street and in a line one hundred feet distant therefrom, about one \* and forty feet to the point or place of beginning. The said last-mentioned line or boundary being coincident with the easterly side of the concrete foundations which have been built for the electric tower now in course of erection at Hallett's point, for the purpose of establishing thereon light-houses or other aids to navigation.

9. **At Coney Island, Kings county.**—Two certain tracts of land at Coney Island, Kings county, the first being described as follows: Beginning at a point where the angle included between the ranges to Centennial Tower and Romer Shoal light-house shall be  $87^{\circ} 40'$ ; the angle between Romer Shoal and Elm Tree light-house,  $77^{\circ} 34'$ , and the angle between Elm Tree and Fort Tompkins light-house shall be  $49^{\circ} 49'$ , and running thence N.  $60^{\circ}$  E., 150 feet; thence N.  $30^{\circ}$  W., 100 feet, thence S.  $60^{\circ}$  W., to the Atlantic ocean; thence along the Atlantic ocean to the point of intersection of the same with the prolongation of the first mentioned course; thence N.  $60^{\circ}$  E., to the place of beginning. The second being described as follows: Beginning at the point of intersection of the range between A. and B. and the division \* of lots forty-four and forty-five, and running thence N.  $12^{\circ}$  E., 25 feet; thence S.  $78^{\circ}$  E., 25 feet; thence S.  $12^{\circ}$  W. to the Atlantic ocean; thence along the Atlantic ocean to the point of intersection of the same with division line of lots forty-four and forty-five; thence along division line north twelve degrees east, to the point of beginning; for the purpose of erecting thereon light-houses and fog signals.

10. **At Staten Island, Richmond county.**—A tract of land at Staten Island, Richmond county, described as follows: Beginning at a point on the farm of George W. Vanderbilt, lying east

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\* So in the original.

of New Dorp lane, distant on a straight line drawn from the north corner of the Elm Tree light-house reservation, on a course N.  $54^{\circ} 30'$  E., 206 feet and six inches from said corner, which is formed by the intersection of the southwesterly line of New Dorp lane with the northwesterly line of the Elm Tree light-house reservation; thence running from said point on the farm aforesaid, N.  $42^{\circ}$  E. 50 feet; thence S.  $48^{\circ}$  E., 50 feet; thence \*  $42^{\circ}$  W., 50 feet; thence N.  $48^{\circ}$  W., 50 feet to the point or place of beginning, being a plot fifty feet square; together with a right of way from the plot so conveyed to the northeasterly line of the New Dorp lane over a strip of land ten feet in width, and having as its northerly boundary the line or course of two hundred and six feet and six inches first above set forth; the courses above given being in accordance with the magnetic meridian of June, eighteen hundred and ninety, for the purpose of erecting a light-house thereon.

11. **West Troy, Albany county.**—Two certain tracts of land at West Troy, town of Watervliet, Albany county, the first being described as follows: Commencing at a point on the east bank of the Erie canal, and which is the southwest corner of lands conveyed by Albert G. Sage to the United States, by deed bearing date the seventeenth day of April, eighteen hundred and fifty-nine, and runs thence easterly along the southerly line of said lands so conveyed by said Sage as aforesaid, about two hundred and fifty-eight feet to the west side of the alley next west of River street or Broadway; thence southerly along the west line of said alley and said line extended, about 300 feet and six inches; thence westerly along the south line of the Gibbons property, so called, about one hundred and ninety-three feet to the east bank of said Erie canal; and thence northerly along said east bank of said Erie canal, 346 feet, more or less, to the place of beginning. The second being described as follows: Commencing at a point on River street or Broadway, and being the southeasterly corner of the arsenal grounds, as possessed and occupied by the United States prior to the year eighteen hundred and fifty-nine, and runs thence southerly along the west line of said River street or Broadway about three hundred and twenty feet to the north line of lot number sixty-two, as laid down on the original map of Gibbonsville; and runs thence westerly along the north line of said lot number sixty-two and said line extended to the west line of the alley next west of said River street or Broadway; thence northerly along the west line of said alley about

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\* So in the original.



three hundred and twenty feet to the southerly line of the arsenal grounds, as possessed and occupied by the United States prior to the year eighteen hundred and fifty-nine; and thence easterly along the southerly line of the said arsenal grounds to the place of beginning.

§ 28. **Cession during use for purposes thereof, with reservation of right to serve process.**— Title and jurisdiction to the following tracts or parcels of land have been ceded to the United States by this state, on condition that the jurisdiction so ceded should not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein, and that such jurisdiction shall continue in the United States so long only as the land shall be used and occupied for the purposes of cession, unless the consent of the state to a different use has been granted.

1. **In the city of New York.**— A tract or tracts of land, and land under water in the city of New York, not exceeding two hundred and fifty feet, being a portion of the eastern end or extremity of the lands and lands under water, formerly known as the Battery extension, including the open slip or basin at the easterly end thereof, together with a right of way or passage not less than seventy-five feet in width, from such lands over and across the lands adjacent thereto, known as the Battery ground, which the mayor, aldermen and commonalty of the city of New York have been authorized to convey to the United States, acquired for the purpose of erecting and establishing a barge office and other suitable buildings and structures for the transaction of the public business connected with the United States revenue service, and for the landing of revenue and other government boats and barges, for the use, accommodation and convenience of the United States custom house for the port of New York, the title of this state in which the commissioners of the land office have been directed to convey.

2. **In Kings county.**— Two certain tracts of land in Kings county, described as follows: All that certain tract, piece or parcel of upland, salt meadow and marsh, bounded as follows: Beginning at the corner of the Wallabout bridge road, and the road leading to Williamsburgh, and running from thence westerly along the bridge road and land of John Ryerson, to a corner; thence westerly along the land of John Ryerson, to a corner; thence westerly along the same and a small creek in the meadow, to the Wallabout bay; thence northerly by the

said Wallabout bay, to the Wallabout creek ; thence easterly by the creek aforesaid to the south corner of the dock ; thence westerly by land of Ida Schenck and the dock, including the road sixty feet (the road to be for the use of the parties interested in the dock and landing); thence 140 feet to the road leading from Williamsburgh to a corner eighty-eight feet from the creek ; thence along said road southerly to the place of beginning, excepting and reserving to Francis Skillman, his heirs and assigns, one undivided half of the dock, and a privilege of a landing at the dock for the owner or occupant of the farm adjoining the herein described premises, lately sold to Charles Bostwick, esquire. Also, all that certain piece of land and meadow on the easterly side of the road to Williamsburgh, beginning against the road at the bridge, and running from thence easterly and southerly by the Wallabout creek to a stake at the said creek ; thence westerly to a notched post against the road ; thence northerly along the road to the place of beginning, altogether in upland, salt meadow and marsh, about thirty-three acres, according to a survey and map of the said lands, made by Jeremiah Lott, in the month of April, 1824. The tracts of land, the jurisdiction whereof is hereby ceded, being the same which were, by an indenture bearing the date the 1st day of July, 1824, conveyed by Sarah Schenck, widow of Martin Schenck, Jane Schenck, widow of Jeromus Schenck, Jacob Harris and Ida his wife, and Isaac Harris and Mary Ann his wife, all of the county of Kings, and state of New York, to the secretary of the navy, the secretary of the treasury, and the secretary of war, for the time being, commissioners of navy hospitals, and to their successors and assigns forever. These cessions were made for the purpose of erecting and maintaining a navy hospital and other necessary edifices and buildings.

3. **At Prince's bay, Richmond county.**—A tract containing about eight acres and three-quarters of an acre of land, situated at Prince's bay, in the town of Westfield and county of Richmond, and bounded as follows: "Easterly and southerly by the bay at high water mark, as patented to the original proprietors; westerly by Richard Lafourge's land; and northerly by land belonging to the estate of Israel R. Dissosway, deceased; being part of the estate whereof he died seized, acquired for the purpose of erecting a lighthouse thereon.

4. **On Staten Island.**—A tract of land not exceeding one acre in extent, on the lands belonging to the state, on and near the southeastern point or projection of Staten Island; to be laid out in such

a manner as not to interfere with the appropriate uses of the military grounds of Fort Tompkins; acquired for the purpose of erecting a light-house thereon.

5. **In Raritan bay.**—A tract of land under water in Raritan bay, described as follows: The site is on the edge, or southeastern extremity of the shoal known as the Great Beds, which makes out from the New Jersey shore at the intersection of the Raritan river and Perth Amboy channels, and is embraced within a circle seven hundred feet in diameter, the center point of which is distant three-fourths of a mile in a course south twenty-two degrees west from the southwest gable of the dwelling-house of B. C. Butler, at Ward's point, on the southerly shore of Staten Island, and contains 8.83 of an acre in area, as shown on a map and description which have been filed in the office of the secretary of state of this state, acquired for the purpose of erecting a light-house thereon.

6. **In Fisher's Island sound.**—A tract of land under water in Fisher's Island sound, described as follows: The area embraced within a circle seven hundred feet in diameter, the center of which shall be the spindle that marked the site of "Latimer's reef" on January first, 1883, acquired for the purpose of erecting a light-house thereon.

7. **At Gardiner's island, Suffolk county.**—A tract of land on Gardiner's island, Suffolk county, described as follows: All that part of the north point of Gardiner's island aforesaid, lying north-west of a line described, and running as follows, to wit: Starting from a stake on a sand ridge, and running thence N. 56° E. and S. 56° W., to the waters on each side of the said point or beach respectively, and bounded northerly, easterly and westerly by the waters of Gardiner's bay, and southeasterly by the beach at the aforesaid line, containing about fourteen acres more or less, acquired for the purpose of erecting and maintaining thereon a light-house and other necessary buildings.

8. **At Rye, Westchester county.**—A tract of land in the town of Rye, Westchester county, on Captain's island, described as follows: Beginning at a marked rock, near a rock called Lightning rock, and running on the southern and eastern shore N. 75° 30' E., 63 links; thence N. 41° E. 3 chains 40 links; thence N. 84° 45' E., one chain 88 links; thence N. 89° E. 3 chains 80 links; thence N. 27° 45' E., 3 chains 53 links; thence N. 54° W., 71 links to a stone bound by the bank at high water mark; thence west, crossing the island to the pond where a stone bound is erected, at high water

mark thence running by the southeast side of the pond, S.  $40^{\circ}$  W., 75 links; thence S.  $52^{\circ} 15'$  W., one chain 92 links; thence N.  $52^{\circ} 45'$  W., 74 links; thence S.  $13^{\circ} 30'$  W., 2 chains 78 links; thence S.  $49^{\circ}$  W., 80 links, to a pine stump by the side of the pond; thence S.  $19^{\circ}$  W., one chain nine links, across a point of land to the place of beginning, but not to contain any part of the pond, acquired for the purpose of erecting and maintaining thereon a light-house and other necessary buildings.

9. At Watervliet, Albany county.—A tract of land in the town of Watervliet, Albany county, described as follows: Beginning at an elm tree standing on the west bank of the Hudson river, in the village of Gibbonsville, thence running, by the magnetic meridian in 1828, N.  $68^{\circ}$  W., 18 chains and seventeen links, to a stone in the ground marked U. S. No. 6; thence S.  $22^{\circ}$  W., 10 chains and 76 links, to a stone in the ground, marked U. S. No. 7; thence N.  $68^{\circ}$  W., 12 chains 81 links, to a stone in the ground, marked U. S. No. 2, at the south side of a new road called the Shaker road; thence along the said road S.  $72^{\circ}$  W., 4 chains and twenty-nine links, to a stone in the ground, marked U. S. No. 3, also on the south side of said road; thence S.  $22^{\circ}$  W., 6 chains and thirty-four links to a stone in the ground, marked U. S. No. 4; thence S.  $68^{\circ}$  E., 35 chains and eighty links, to the west shore of the Hudson river at low water mark; thence up the said stream, along low water mark, till the place of beginning bears N.  $68^{\circ}$  W., thence from the low water mark N.  $68^{\circ}$  W., to the place of beginning, together with all the land under water lying opposite and easterly of the described premises, which has been heretofore granted by letters patent to James Gibbons, by the people of the state of New York; the evidences of the several purchases of the land which is hereby ceded, being recorded in the office of the clerk of the county of Albany; but always excepting and reserving out of the lands above described, the land occupied by the Erie canal, one rod on each side thereof, and also the public highway, acquired for the purpose of erecting and maintaining thereon arsenals, magazines, dock-yards and other necessary buildings.

§ 29. Authorization of acquisition and cession of jurisdiction thereupon, during use for purposes thereof, with reservation of right to serve process.—The United States has been authorized to acquire the following tracts or parcels of land, and jurisdiction thereof has been ceded to the United States upon such acquisition on condition that the jurisdiction so ceded should not prevent the

execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein, and that such jurisdiction shall continue in the United States so long only as the land shall be used and occupied for the purposes of cession, unless the consent of the state to a different use has been granted.

1. **In the city of Brooklyn.**— A tract or tracts of land in and adjacent to the city of Brooklyn, described as follows: Commencing at the stone monument, No. 1, at the corner of Flushing avenue and the Williamsburgh road; thence S.  $82^{\circ} 25' W.$  599  $\frac{3}{4}$  feet to stone monument No. 2; thence N.  $82^{\circ} 30' W.$ , along Flushing avenue, 4,152 feet 6  $\frac{1}{2}$  inches to stone monument No. 3; thence N.  $7^{\circ} 16' E.$ , along Navy street 903 feet to the point J; thence N.  $25^{\circ} 39' W.$  479  $\frac{1}{4}$  feet to point K; thence N.  $40^{\circ} 47' E.$  1,357  $\frac{1}{4}$  feet to the point L; thence northeastwardly until it intersects the continuation of the Williamsburgh line at the point M, at the distance of 130 feet from the block; thence eastwardly by and with the said continuation of the Williamsburgh line to the center of the channel at the point N; thence along the center of the channel to the point O, at the intersection of the line A B, continued; thence S.  $57^{\circ} 30' E.$  to the point A, equidistant between two piles, driven at low water mark; thence S.  $57^{\circ} 30' E.$  991  $\frac{3}{4}$  feet to the point B; thence S.  $42^{\circ} E.$  1,025 feet to the point C; thence S.  $35^{\circ} 30' E.$  200 feet to the point D; thence S.  $29^{\circ} E.$  271  $\frac{1}{4}$  feet to the point E; thence S.  $4^{\circ} E.$  189  $\frac{3}{4}$  feet to the point F; thence S.  $34^{\circ} 30' W.$  93 feet to the point G, in the center of the Wallabout creek; thence along the center of said creek to the point H; thence S.  $68^{\circ} W.$  244 feet to the point I; thence S.  $0^{\circ} 55' E.$  219  $\frac{5}{8}$  feet to the commencement, at the monument No. 1; provided, nevertheless, that the city of Brooklyn shall not be deprived of any vested rights in and over Vanderbilt and Clinton avenues, as now laid out and graded, or the rights of sewerage which the said city may now possess over the property laying between the Naval Hospital grounds and the easterly boundary of the present navy yard.

The free, common and unrestricted use and navigation of the waters and channels of the Wallabout bay, from the westerly line of Vanderbilt avenue in front thereof, and extending therefrom easterly and northerly to the East river, is hereby reserved to the people of this state; and the United States shall not in any way or manner injure, affect or obstruct the free and entire use and navigation of the said channel, or the landing places or wharves at the foot of, or

where Clinton and Vanderbilt avenues, or either of them, reach or may extend to the said channel. Such acquisition has been authorized for the purpose of a navy yard and naval hospital, according to the plan furnished by the naval department.

**2. On Staten Island.**— A tract of land on Staten Island, Richmond county, owned by William H. Aspinwall, lying mainly between the lands of the United States and New York avenue, for the purpose of building and maintaining forts, magazines, arsenals and other necessary structures.

**3. On Long Island.**— A tract or tracts of land on Long Island, Queens county, in a direction opposite Fort Schuyler, East river (and concurrent jurisdiction over all the shores, flats, and waters contiguous to such lands, within 400 feet from low water mark [measured toward the channel] and over the land lying between high and low water marks), for the purpose of building and maintaining forts, magazines, dock-yards, wharves and other necessary structures and appendages.

**4. On Long Island and Staten Island.**— A tract or tracts of land adjacent to Fort Hamilton, Kings county, and adjacent to Fort Tompkins in the town of Southfield, Staten Island, not exceeding 150 acres together with all the shores, flats and waters within 400 yards from low water mark, contiguous to such lands; for the purpose of erecting and maintaining thereon batteries, forts, magazines, wharves and other necessary structures with their appendages.

**5. In Hudson river.**— Certain tracts of land under water in the Hudson river, for the purpose of erecting light-houses, beacon lights, range lights, or other aids to navigation, and light-keepers' dwellings, and which the commissioners of the land office have been authorized to convey.

**6. At sundry places for light-house purposes.**— Certain tracts of land in or near the Hudson river, for the purpose of the construction and maintenance of light-houses and keepers' dwellings, as follows:

1. For a beacon light on the eastern shore of the river near the lower end of Fish House bar.

2. For a beacon light on a dike above Fish House bar.

3. For a beacon light on the southern part of an island near Round shore.

**7. At Danskamer point, near Orange county.**— A tract of land not exceeding one acre, situate at Danskamer point, on the western side of the Hudson river, at a point near the northern boundary of Orange county; and also a tract of land not exceeding 25 feet



square, situate at the Narrow channel, on the west side of the Hudson river, in Greene county, distant about three-fourths of a mile due north of the Four-Mile point light-house, for the purpose of establishing and maintaining light-houses, fog-signals or other aids to navigation.

8. **Near Tarrytown.**— A tract of land under water in the Hudson river, in the vicinity of Tarrytown point, for the purpose of erecting a beacon light thereon, when the site thereof shall have been selected and approved by the commissioners of the land office and a description thereof filed in the office of the secretary of state.

9. **Sister islands, St. Lawrence county.**— Certain tracts of land in St. Lawrence county, known and designated as the "Sister islands," being two islands situated near the most easterly point of Grenadier island, in Canada, for a site for a light-house and to be acquired by the United States before January 1, 1862.

10. **At Ogdensburgh, St. Lawrence county.**— A tract of land in Ogdensburgh, St. Lawrence county, described as follows: That part of block No. 45, which block is bounded by State, Green, Water and Knox streets, between Knox street and a line drawn across said block from State to Water street, parallel with Knox street, and distant therefrom 145 feet 7 inches, and being 117 feet and 7 inches on Knox street, and 145 feet and 7 inches on State street, for the purpose of a custom-house and post-office with court-rooms.

11. **At Hounsfield, Jefferson county.**— A tract of land known as Horse island, in the town of Hounsfield, Jefferson county, for the purpose of erecting and maintaining a light-house and other buildings connected therewith.

12. **Near outlet of Lake Champlain.**— A tract of land near the outlet of Lake Champlain for a site for a fort, and which the commissioners of the land office have been authorized to convey accordingly.

13. **Near mouth of Oswego river.**— A tract of land near the mouth of the Oswego river, Oswego county, known as the old fort, military and parade ground, for the purpose of re-establishing the military post, of rebuilding the fort, redoubts and barracks, of improving the parade grounds, and of the erection of a marine hospital, and which the commissioners of the land office have been authorized to convey accordingly. Any right, title or privilege granted by the United States to any railroad company to cross or occupy any portion of such lands, shall not be deemed a use contrary to the purposes of the cession thereof.

14. **In the city of Buffalo.**—A tract or tracts of land in the city of Buffalo, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings deemed necessary for the protection and defense of such city.

15. **In Buffalo.**—A tract or tracts of land adjacent to, or in the vicinity of, the lands owned by the United States, and occupied on January 1, 1842, by the light-house in the city of Buffalo; for the purpose of erecting a fort, battery or other military works thereon, and which the commissioners of the land office have been authorized to convey accordingly.

16. **At Black Rock, Erie county.**—Certain tracts of land in the south village of Black Rock, between Lake street or Broadway and the easterly line of the Buffalo and Black Rock railroad, or north of block 133, and between the Erie canal and Black Rock harbor, or lands adjacent thereto, reserving a free and uninterrupted use and control in the canal commissioners of all that may be necessary for canal and harbor purposes; for the purpose of erecting and establishing a fort, battery, barracks, parade ground or military post, and which the commissioners of the land office have been authorized to convey accordingly.

17. **At Black Rock and Buffalo.**—A tract of land in the south village of Black Rock, Erie county, described as follows: Beginning at the northeast corner of Connecticut street and the Buffalo and Black Rock railroad, thence first in a northwesterly and next in a northerly direction along the easterly side of said railroad, to a short street leading from said railroad to Massachusetts street; thence along the south side of said short street to Broadway; thence along the west side of Broadway to Fifth street; thence along the southwest side of Fifth street to Rhode Island street; thence along the southeast side of Rhode Island street to Broadway; thence along the west side of Broadway to Fourth street; thence along the southwest side of Fourth street to Connecticut street; thence along the northwest side of Connecticut street to the place of beginning; or so much thereof as may be required by the United States of America, and necessary for the purpose of erecting and establishing a fort, battery, barracks, parade ground or military post; provided always that this state shall have the right to quarry, carry off, and use, for public purposes the stone on the southwest side of the reserve, called the "Military square," and of the reserve immediately north thereof, until the bank shall have been penetrated by such quarrying to within 50 feet of the southwest side of Fourth street; the United States of



America being allowed to quarry, carry off, and use so much stone in said quarry as may be deemed necessary for the construction of the contemplated defenses, together with all the buildings and other erections that may be connected therewith, and which the commissioners of the land office have been authorized to convey accordingly, and also all lands acquired by the United States prior to February 9, 1844, under any law authorizing proceedings in the nature of a writ *ad quod damnum*, or by purchase of lands in the city of Buffalo and village of Black Rock, and all those streets, lanes and alleys between blocks Nos. 186, 167 and 168 in said village, and between such blocks and the premises above in this subdivision described.

§ 30. Authorization of acquisition and cession of jurisdiction thereupon with reservations of concurrent jurisdiction and right to serve process.—The United States has been authorized to acquire the following tracts or parcels of land, and jurisdiction thereof has been ceded to the United States upon such acquisition, on condition that the state of New York should retain a concurrent jurisdiction with the United States over such tracts of land in the execution of civil process in all cases, and of such criminal process as might be issued under the authority of the state of New York against any person charged with crime committed within or without such tracts of land, and that the jurisdiction of the United States shall continue so long only as the lands shall be used for the purposes of cession.

1. At Watervliet, Albany county.—A tract of land in the town of Watervliet, Albany county, described as follows: Beginning at a stone set in the ground, marked U. S. No. 2, standing at the south side of the Shaker road, and running thence from the said stone along the said road N. 72° E., 16 chains and 24 links, to a stone in the ground, marked U. S. No. 6; thence S. 22° W., 10 chains 76 links, to a stone in the ground, marked U. S. No. 7, thence N. 68° W., 12 chains 81 links, to the place of beginning, containing 6 acres and .89 of an acre. Also over all that other certain tract, piece or parcel of land situate, lying in and being in the town of Watervliet, in the county of Albany, aforesaid, bounded as follows, to wit: Beginning at a stone set in the ground, marked U. S. No. 4, and running thence N. 22° E., 6 chains and 34 links, to a stone in the ground, marked U. S. No. 3, standing at the south side of the Shaker road; thence S. 72° W., 16 chains and 24 links, to a stake (a stone in the ground marked U. S. No. 8), on the north side of the old Schenectady road; thence along the said road southeasterly 22 chains and

59 links, to the westerly corner of the burial ground ; then along the outside thereof N.  $57^{\circ} 45'$  E., 3 chains and 29 links, to the most northerly corner of the said burial ground ; thence S.  $32^{\circ} 15'$  E., 3 chains and 29 links, to the most easterly corner of the said burying ground ; thence S.  $69^{\circ}$  E., 1 chain 44 links, to a stake (a stone in the ground marked U. S. No. 9) ; thence S.  $79^{\circ} 15'$  E., 12 chains 80 links, to a stone in the ground marked U. S. No. 10, on the west side of the Erie canal ; thence along the canal N.  $10^{\circ}$  E., 9 chains and 93 links, to the south line of the land belonging to the people of the United States (designated by a stone in the ground, marked U. S. No. 11) ; thence along the said line N.  $68^{\circ}$  W. 24 chains 50 links, to the place of beginning, containing 38 acres and  $\frac{1}{10}$  of an acre ; but always excepting and reserving out of the lands above described one rod in width along the west side of the Erie canal, for the purpose of erecting and maintaining thereon arsenals, magazines and other necessary buildings.

2. **At Watervliet, Albany county.**—A tract of land in the village of West Troy, town of Watervliet, Albany county, described as follows : Commencing at a point on the east bank of the Erie canal at the southwest corner of the United States arsenal grounds, and extending thence easterly along the said arsenal grounds to River street ; thence southerly along the west line of said River street thirty feet ; thence westerly on a line parallel with the said north line, to the west side of the alley next west of said River street ; thence southerly along the west side of said alley to a point distant from the said north boundary line 293 feet and 6 inches ; thence westerly on a line parallel with the said north boundary line, about 258 feet to the east bank of the Erie canal ; thence northerly along the said east bank of said canal 300 feet, to the place of beginning, for the purpose of erecting and maintaining thereon arsenals, magazines and other necessary buildings, and of using the grounds in connection with the arsenal buildings already erected prior to the acquisition thereof.

3. **In the city of Buffalo.**—A tract of land in the city of Buffalo, described as follows : Beginning at a point in the southerly margin of the Big Buffalo creek, at the southeast corner of lot No. 50 in the city of Buffalo, thence S.  $45^{\circ}$  and  $30''$  W., 1,000 feet to Lake Erie thence at right angles northerly and along the shore of Lake Erie 200 feet ; thence northerly on a line 200 feet from and parallel to the first mentioned line, 1,000 feet to the southerly margin of the Big Buffalo creek ; and thence southerly at right angles and along

the margin of said creek, 200 feet to the place of beginning; together with such other lands adjoining thereto, and in connection therewith and the waters of Lake Erie as shall be necessary for the purpose of excavating and maintaining a canal or channel to be used as a public highway, and connecting Lake Erie with said creek, and for the purpose of erecting and maintaining the necessary piers to protect the said canal or channel and a light-house at or near the mouth thereof.

4. In the city of Buffalo.—A tract or tracts of land situate in the city of Buffalo, and the town of Black Rock, Erie county; for the purpose of erecting and maintaining a sea wall connecting with the pier on the south side of the Big Buffalo creek, belonging to the United States on January 1, 1850, and extending southerly therefrom along the shore of Lake Erie to the northerly side of the canal or channel connecting Lake Erie with Big Buffalo creek, and from the southerly side of such channel to Four Mile point.

§ 31. Cession during ownership by the United States and use for purposes thereof, with sundry reservations. — Title and jurisdiction to the following tracts or parcels of land has been ceded to the United States upon condition that the jurisdiction so ceded should not prevent the execution on such tracts or parcels of any process, civil or criminal, issued under the authority of this state; nor the operation within the same of the laws of this state, or the ordinances of the common council of the city of New York, for the general regulation of the civil police of such city, passed before the date of the deed of cession, and not incompatible with the purpose for which such cession was made; and that the United States shall retain such use and jurisdiction so long only as such tracts shall be used for the defense and safety of the city of New York:

1. In the city of New York.—A tract of land and land under water, in the city of New York, described in a deed dated May 6, 1808, as follows: "Beginning in the Hudson river at a point in the continuation of the south line of Hubert street, bearing N. 79° 30' W., from the southeasterly corner of Hubert and West streets, distant 200 feet westerly from the permanent line of West street, which said permanent line bears S. 10° 15' W., from the south-westerly corner of the state prison wall; thence N. 10° 15' E., parallel to the said permanent line, 305 feet, to a point in the continuation of the north line of Laight street; thence N. 79° 30' W., 300 feet into the Hudson river; thence S. 10° 15' W., 305 feet to a

point in the continuation of the south line of Hubert street aforesaid; thence S.  $79^{\circ} 30'$  E., 300 feet, to the place of beginning," acquired for the defense and safety of the city of New York.

2. **In the city of New York.**—A tract of land or land under water in the city of New York, described in a deed dated May 6, 1808, as follows: "Beginning at a point in the line of the present battery, six feet southerly of the most southern external angle formed by the main battery and the present bastion, which said point is 497 feet 11 inches on a course S.  $36^{\circ} 20'$  W., from the southeasterly corner of the brick house situate at the corner of Marketfield street and Broadway, now or lately belonging to Robert Kennedy, and is also on a course S.  $89^{\circ} 10'$  W., 264 feet 1 inch from the northwesterly corner of Bridge and State streets; thence N.  $16^{\circ} 10'$  W., 310 feet; thence S.  $64^{\circ}$  W., 500 feet; thence S.  $26^{\circ}$  E., 300 feet; thence N.  $64^{\circ}$  E., 425 feet, to the place of beginning; all of which courses are to be run as the magnetic needle pointed on May 6, 1808," acquired for the defense and safety of the city of New York.

3. **In East river.**—A tract of land under water in East river at the Wallabout bay, and adjoining the navy yard of the United States, described in a deed dated April 3, 1810, as follows: "Beginning at the southerly end of the dam of the pond at the navy yard, at a point designated on the map or chart comprising a delineation of the said parcel of land hereunto annexed, by the letter A, from which point the easterly corner of the commander's house at the navy yard bears N.  $29^{\circ} 45'$  W., the steeple of the Reformed Dutch Church at Brooklyn bears S.  $62^{\circ}$  W., and the south corner of the dwelling-house of Jeremiah Johnson bears N.  $80^{\circ} 25'$  E., and running from the said point designated as aforesaid by the letter A, N.  $52^{\circ} 30'$  E., 2,290 feet to a point from which the north corner of the dwelling-house of the said Jeremiah Johnson bears S.  $70^{\circ} 30'$  E., designated by the letter B, in the said map or chart, and running from the said last-mentioned point N.  $7^{\circ}$  E., 1,580 feet, to a point from which the southwest corner of Thompson's house on the Long Island shore bears N.  $76^{\circ} 45'$  E., the steeple of the Reformed Dutch Church in Brooklyn bears S.  $48^{\circ} 25'$  W., and the steeple of St. Paul's Church in the city of New York bears N.  $79^{\circ}$  W., and designated in the said map or chart by the letter C; and running from the said last-mentioned point S.  $70^{\circ}$  W., 2,480 feet to the north corner of the navy yard, designated in the said map or chart by the letter D; and thence southerly along the navy yard to the place of beginning; all which courses and bearings are taken as

the magnetic needle pointed on April 3, 1810," acquired for the defense and safety of the city of New York.

The free and common use of the waters not appropriated by the United States for wharves or fortifications to the eastward of the navy yard of the United States, and the westward of the east boundary line of the land above described, is reserved to the people of this state.

§ 32. **Cession during use for purposes thereof, with sundry reservations.**—Title and jurisdiction to the following tract or parcel of land has been ceded to the United States by this state upon condition that the jurisdiction so ceded should not prevent the execution on such tract of any process, civil or criminal, issued under the authority of this state, nor prevent the laws of the state, not incompatible with the purposes for which such cession is made, from operating within the bounds of such tract; and that the United States are to retain such jurisdiction so long only as such tract shall be used for the defense and safety of the city of New York:

1. **At New Utrecht.**—A tract of land in the town of New Utrecht, Kings county, on the easterly side of the Narrows, at the entrance into the bay of New York, and upon a reef called Hendrick's reef, described as follows: Beginning at the northerly corner thereof, by land of Denyse D. Denyse, at high water mark, and near the southeasterly side of a large rock, and running from thence S.  $24^{\circ} 30'$  E., 7 chains and 17 links along said high water mark to the land of Jaques Cortelyou; thence S.  $64^{\circ} 45'$  W., 24 chains to the southerly corner of the hereby granted premises; thence N.  $25^{\circ} 15'$  W., 7 chains and 17 links; thence N.  $10^{\circ} 30'$  W., 11 chains and 70 links, to the westerly corner of the hereby granted premises; thence S.  $86^{\circ}$  E., 24 chains to the place of beginning, containing 30 acres, 2 roods and 4 perches; all which courses and bearings are taken as the magnetic needle pointed November 6, 1812, acquired for the defense and safety of the city of New York.

The free and common passage over the waters aforesaid about the said tract, not actually appropriated by the United States for wharves, bridges, fortifications or public obstructions, is reserved to the people of this state.

§ 33. **Cession with sundry reservations.**—Title and jurisdiction to the following described tract or parcel of land has been ceded to the United States by this state upon condition that the jurisdiction so ceded should not prevent the execution on such tract or parcel of any process, civil or criminal, issuing under the authority of

this state, nor the operation of the public laws of this state upon such tract, so far as the same might not be incompatible with the free use and enjoyment of the premises by the United States, for the purpose of the erection of magazines, arsenals, barracks and other needful buildings.

A tract of land in the town of Greenbush in the manor of Rensselaerwick, county of Rensselaer and state of New York, which was leased by Stephen Van Rensselaer to Christopher Yates on the 16th day of August, 1790, bounded and described as follows: "Beginning at a stake and stones standing at the distance of 12 chains and 45 links from the southwest corner of the kitchen on the premises, on a course N.  $49^{\circ} 30'$  W., and running thence N.  $49^{\circ} 30'$  W., 1 chain and 6 links; thence N.  $59^{\circ} 45'$  W., 6 chains and 78 links; thence N.  $29^{\circ}$  E., 3 chains and 73 links; thence N.  $16^{\circ}$  E., 9 chains and 24 links; thence S.  $60^{\circ}$  E., 7 chains and 20 links; thence S.  $34^{\circ}$  E., 1 chain; thence S.  $50^{\circ}$  E., 2 chains; thence N.  $15^{\circ}$  E., 29 chains; thence S.  $39^{\circ}$  E., 38 chains and 12 links; thence due East 10 chains; thence S.  $11^{\circ} 30'$  E., 48 chains and 80 links; thence due W. 32 chains and 20 links; thence due N. 10 chains; thence N.  $26^{\circ}$  W., 5 chains 53 links; thence S.  $37^{\circ}$ , 6 chains and 47 links; thence N.  $18^{\circ}$  W., 2 chains and 27 links; thence N.  $10^{\circ}$  W., 3 chains and 71 links; thence N.  $2^{\circ}$  W., 3 chains and 58 links; thence N.  $70^{\circ}$  E., 1 chain and 18 links; thence N.  $18^{\circ}$  W., 4 chains and 87 links; thence N.  $77^{\circ} 40'$  W., 2 chains and 97 links; thence S.  $15^{\circ} 40'$  W., 12 chains and 31 links; thence S.  $9^{\circ}$  E., 8 chains and 34 links; thence S.  $57^{\circ}$  E., 2 chains and 44 links; thence S.  $17^{\circ}$  W., 9 chains; thence N.  $68^{\circ}$  W., 22 chains and 30 links; thence due S. 4 chains and 40 links; thence N.  $60^{\circ}$  E., 6 chains; thence N.  $29^{\circ}$  W., 6 chains and 20 links; thence N.  $13^{\circ}$  W., 3 chains; thence S.  $68^{\circ}$  E., 5 chains and 21 links; thence S.  $32^{\circ} 18'$  E., 6 chains and 40 links; thence S.  $3^{\circ} 42'$  W., 1 chain 80 links; thence S.  $89^{\circ} 48'$  E., 4 chains 30 links; thence N.  $3^{\circ} 42'$  E., 9 chains and 90 links; thence S.  $86^{\circ} 18'$  E., 6 chains and 20 links; thence N.  $3^{\circ} 42'$  E., 14 chains and 50 links; thence N.  $86^{\circ} 18'$  W., 6 chains and 20 links; thence S.  $3^{\circ} 42'$  W., 3 chains and 80 links; thence N.  $42^{\circ} 18'$  W., 10 chains and 80 links, to the beginning, containing 261 acres and .3 of an acre;" acquired for the purpose of erecting magazines, arsenals, barracks and other needful buildings.

§ 34. Cession during use for purposes thereto with sundry reservations.—Title and jurisdiction of the following described tracts or parcels of land has been ceded to the United States by this



state on condition that the jurisdiction so ceded should not prevent the execution on such tracts of any process, civil or criminal, issued under the authority of this state, nor prevent the laws of this state, not incompatible with the purposes for which such cession was made from operating within the bonds\* of such tracts, and that the jurisdiction of the United States shall continue so long only as such tracts shall be applied to the use of providing for the defense and safety of this state :

Three separate tracts of land in the county of Oneida, the county of Albany and the county of Clinton, the first of which is described as follows : “ All that certain piece or parcel of land situate in the village of Rome, county of Oneida, and state of New York, on which the arsenal, armory and other buildings belonging to the United States, are erected, distinguished as lots Nos. 4, 5, 6, 13, 14 and 15, in block No. 6 of said village, lying contiguous and forming one entire lot, and is bounded as follows, to wit : Beginning at the northwesterly corner of lot No. 7, in said block No. 6, and running thence westerly on the line of Dominick street, N.  $36^{\circ} 20'$  W., in 1796, 198 feet, to the northeasterly corner of lot No. 3 in said block No. 6 ; thence at right angles with Dominick street, southerly, 432 feet, to the south bank of the canal connecting Wood creek with the Mohawk river ; thence easterly on the north bank of said canal to the southwesterly corner of lot No. 12 in said block No. 6, 216 feet ; thence running northerly at right angles with Dominick street to the place of beginning, 340 feet. Also, lot No. 5 in block No 7 bounded as follows, to wit : Beginning at the southwesterly corner of lot No. 6 in block No. 7, and running thence westerly on the line of Dominick street, 66 feet to the southeasterly corner of lot No. 4, in said block No. 7 ; thence northerly at right angles with Dominick street, 200 feet, to the southerly line of Stone alley ; from thence easterly on the southerly line of Stone alley, and parallel to Dominick street, 66 feet ; from thence at right angles with Dominick street, 200 feet, to the place of beginning.” The second of said tracts is described as follows : “ And also all that certain piece or parcel of land situate in the town of Watervliet, in the county of Albany, and state aforesaid, at the place called Gibbonsville, on which is also erected an arsenal and other buildings belonging to the United States bounded as follows, to wit : Beginning at an elm tree standing on the bank of Hudson's river in the village of Gibbonsville, thence running by the true meridian (the variation of the magnetic needle being calculated at  $5^{\circ} 30'$  to the west of north), north  $75\frac{1}{2}^{\circ}$  W., 11 chains and

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\* So in the original.

35 links; thence S.  $14\frac{1}{2}^{\circ}$  W., 3 chains and 86 links; thence N.  $75\frac{1}{2}^{\circ}$  W., 7 chains and 75 links; thence S.  $14\frac{1}{2}^{\circ}$  W., 3 chains; thence S.  $75\frac{1}{2}^{\circ}$  E., 7 chains and 75 links; thence S.  $14\frac{1}{2}^{\circ}$  W., 3 chains and 71 links; thence S.  $75\frac{1}{2}^{\circ}$  E., 11 chains and 35 links, to the bank of Hudson's river; thence S.  $75\frac{1}{2}^{\circ}$  E., to the main channel of the said river; thence northerly along said channel to intersect a line drawn S.  $75\frac{1}{2}^{\circ}$  E. from the first station; and then N.  $75\frac{1}{2}^{\circ}$  W. to the place of beginning." The third of such tracts is described as follows: Lots No. 61, 62, 63, 64, 65 and 66 of the 80 acre lots in the tract granted to the Canadian and Nova Scotia refugees, containing in the whole 480 acres, and also over a tract of 9 acres 3 roods and 5 poles, being the east end or front of lot No. 60 in the same tract; which tracts are situated at Rouse's Point in the county of Clinton, on the west bank of Lake Champlain; acquired for the defense and safety of the state.

**§ 35. Cession of jurisdiction to lands acquired for light-house purposes.**—The jurisdiction to such tracts of land, not exceeding ten acres, acquired by the United States for the construction and maintenance of light-houses and keepers' dwellings before April 18, 1861, or as shall have been acquired since such date, or as shall be hereafter acquired, upon the selection by an authorized officer of the United States, the approval of the governor, the filing in the office of the secretary of state of a description of the boundaries thereof, with the approval of the governor indorsed thereon, and the filing and recording in such office of a map thereof, is ceded to the United States, upon condition that the jurisdiction so ceded shall not prevent the execution thereon of any process, civil or criminal, issued under the authority of the state, except as such process might affect the property of the United States therein, and that such process\* shall continue in the United States so long only as the land shall be used and occupied for the purposes of the cession, unless the consent of the state to a different use shall have been granted.

**§ 36. Acquisition by condemnation.**—When the United States shall have been authorized by law to acquire title to any real property within this state, such title may be acquired by gift or grant from the owners thereof, or by condemnation if, for any reason, the United States is unable to agree with the owners for the purchase thereof.

**§ 37. Saving clause.**—The adoption of this article shall not be construed to cede to the United States any territory or jurisdiction over any territory not so ceded by the laws repealed by the revision

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\* So in the original.



of the general laws of the state of which this article is a part, or to change the terms or conditions upon which such cessions were originally made

### ARTICLE III.

#### ARMS AND GREAT SEAL OF STATE.

SECTION 40. Description of the arms of the state.

41. Painted devices of arms in certain public places.

42. Prohibition of other pictorial devices.

43. Great seal of the state.

44. The use of the great seal.

45. Laws repealed.

46. When to take effect.

§ 40. Description of the arms of the state.—The device of arms of this state as adopted March 16, 1778, is hereby declared to be correctly described as follows:

Charge. Azure, in a landscape, the sun in fess, rising in splendor, or behind a range of three mountains, the middle one the highest, in base, a ship and sloop under sail, passing and about to meet on a river, bordered below by a grassy shore fringed with shrubs, all proper.

Crest. On a wreath, azure and or, an American eagle, proper rising to the dexter, from a two-thirds of a globe terrestrial showing the North Atlantic ocean with outlines of its shores.

Supporters. On a quasi compartment formed by the extension of the scroll.

Dexter. The figure of Liberty proper, her hair disheveled and decorated with pearls, vested azure, sandaled gules, about the waist a cincture or, fringed gules, a mantle of the last depending from the shoulders behind to the feet, in the dexter hand a staff ensigned with a Phrygian cap or, the sinister arm embowed, the hand supporting the shield at the dexter chief point, a royal crown by her sinister foot dejected.

Sinister. The figure of Justice proper, her hair disheveled and decorated with pearls, vested or, sandaled, cinctured and mantled as Liberty, bonud about the eyes with a fillet proper, in the dexter hand, a straight sword hilted or, erect, resting on the sinister chief point of the shield, the sinister arm embowed, holding before her her scales proper.

Motto. On a scroll below the shield argent, in sable, Excelsior.

§ 41. Painted devices of arms in certain public places.—The device of arms of the state, corresponding to the blazon herein-

before given, shall be painted in colors upon wood or canvass, and hung upon the walls of the executive chamber, the court of appeals, the office of the secretary of state and the senate and assembly chambers.

§ 42. Prohibition of other pictorial devices.—No pictorial devices other than the arms of the state shall be used in the public offices at the capitol for letter headings and envelopes used for official business. Persons printing and circulating public documents under the authority of the state, when they use a vignette, shall place upon the title pages of the documents the standard device of the state arms without alterations or additions.

§ 43. Great seal of the state.—The secretary of state shall cause to be engraved upon metal two and one-half inches in diameter the device of arms of this state, accurately conformed to the description thereof given in this article, surrounded with the legend, “The great seal of the state of New York.” It alone shall be used as the great seal of the state, and the secretary of state shall have the custody thereof.

§ 44. The use of the great seal.—All such matters as have issued under the great seal of the state since March 16, 1778, shall continue to be issued under such seal, except copies of papers and records certified by the secretary of state or his deputy and authenticated under his seal of office.

§ 45. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

§ 46. When to take effect.—This chapter shall take effect on October 1, 1892.

SCHEDULE OF LAWS REPEALED.

Revised Statutes...Part I, Chapter 1.....All.		
LAWS OF	Chapter	Sections
1830.....	332.....	All.
1831.....	289.....	All.
1833 .....	96.....	All.
1833.....	181.....	All.
1834.....	8.....	All.
1836.....	19.....	All.
1839.....	29.....	All.
1839.....	232.....	All.

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LAWS OF	Chapter	Sections
1840.....	155.....	All
1842.....	57.....	All
1842.....	316.....	All
1844.....	21.....	All
1846.....	25.....	All
1847.....	153.....	All
1847.....	196.....	All
1849.....	288.....	All
1849.....	390.....	All
1850.....	222.....	All
1852.....	32.....	All
1853.....	355.....	All
1853.....	480.....	All
1853.....	586.....	All
1854.....	1.....	All
1854.....	17.....	All
1854.....	181.....	All
1854.....	292.....	All
1855.....	5.....	All
1855.....	7.....	All
1855.....	19.....	All
1855.....	115.....	All
1855.....	201.....	All
1855.....	218.....	All
1855.....	399.....	All
1857.....	19.....	All
1857.....	39.....	All
1857.....	604.....	All
1857.....	762.....	All
1859.....	337.....	All
1860.....	506.....	All
1860.....	689.....	All
1861.....	118.....	All
1861.....	223.....	All
1861.....	313.....	All
1862.....	12.....	All
1862.....	253.....	All
1865.....	523.....	All
1865.....	689.....	All
1866.....	154.....	All
1866.....	862.....	All
1867.....	186.....	All
1867.....	675.....	All
1867.....	720.....	All
1868.....	257.....	All
1869.....	649.....	All
1870.....	70.....	All
1871.....	326.....	All

## THE STATE LAW.

## Ch. 2, G. L.

LAWS OF.	Chapter	Sections
1871.....	580.....	All.
1872 .....	111 .....	All.
1872.....	369.....	All.
1872.....	583.....	All.
1873.....	195.....	All.
1873.....	320.....	All.
1873.....	584.....	All.
1874.....	49.....	All.
1874.....	432.....	All.
1875.....	114.....	All.
1875.....	359.....	All.
1875.....	424.....	All.
1875.....	502.....	All.
1876.....	410.....	All.
1878.....	216.....	All.
1878.....	370.....	All.
1879.....	33.....	All.
1879.....	93.....	All.
1879.....	166.....	All.
1879.....	206.....	All.
1879.....	425.....	All.
1880.....	15.....	All.
1880.....	69.....	All.
1880.....	196.....	All.
1880.....	213.....	All.
1880.....	340.....	All.
1880.....	559.....	All.
1881.....	239.....	All.
1882.....	109.....	All.
1882.....	245.....	All.
1883.....	108.....	All.
1883.....	128.....	All.
1883.....	223.....	All.
1883.....	280.....	All.
1883.....	385.....	All.
1883.....	499.....	All.
1884.....	11.....	All.
1884.....	75.....	All.
1884.....	273.....	All.
1884.....	351.....	All.
1885.....	96.....	All.
1885 .....	115.....	All.
1886.....	46.....	All.
1886.....	47.....	All.
1886.....	93.....	All.
1886.....	414.....	All.
1886.....	449.....	All.
1886.....	560.....	All.

LAWS OF	Chapter	Sections
1896.....	610.....	All.
1887.....	69.....	All.
1887.....	91.....	All.
1887.....	92.....	All.
1888.....	159.....	All.
1888.....	300.....	All.
1888.....	857.....	All.
1889.....	212.....	All.
1889.....	268.....	All.
1889.....	445.....	All.
1889.....	129.....	All.
1889.....	336.....	All.
1890.....	18.....	All.
1891.....	103.....	All.
1891.....	183.....	All.

CHAP. 679.

AN ACT in relation to Indians, constituting chapter five of the general laws.

APPROVED by the Governor May 18, 1892. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

CHAPTER V OF THE GENERAL LAWS.

THE INDIAN LAW.

- ARTICLE I. General provisions. (§§ 1-15.)
- II. The Onondaga tribe. (§§ 20-26.)
- III. The Seneca Indians. (§§ 40-59.)
- IV. The Seneca Indians on the Allegany and Cattaraugus reservations (§§ 70-77.)
- V. The Seneca Indians on the Tonawanda reservation. (§§ 80-85.)
- VI. The Tuscarora nation. (§§ 90-94.)
- VII. The St. Regis tribe. (§§ 100-102.)
- VIII. The Shinnecock tribe. (§§ 110-114.)

ARTICLE I.

GENERAL PROVISIONS.

- SECTION 1. Short title.
2. Power to contract.
3. Marriage and divorce.
4. Pawns or pledges for liquor.
5. Actions in state courts.

**SECTION 6. Exemption of reservation lands from taxation.**

7. Partition of tribal lands.
8. Intrusions on tribal lands.
9. Residence of other Indians on tribal lands.
10. Licenses to reside upon tribal lands.
11. Trespasses on tribal lands.
12. Highways on tribal lands.
13. Powers of commissioners of land office in relation to Indians.
14. Trust funds for Indians.
15. Freedom from toll and ferriage.

**SECTION 1. Short title.**—This chapter shall be known as the Indian law.

**§ 2. Power to contract.**—An Indian shall be liable on his contracts not prohibited by law; and a native Indian may take, hold and convey real property the same as a citizen. Upon becoming a freeholder to the value of one hundred dollars he shall be subject to taxation.

**§ 3. Marriage and divorce.**—The laws of the state relating to the capacity to contract marriage, the solemnization of marriage, the annulment of the marriage contract, and divorce, are applicable to Indians; and subject to the jurisdiction of the peacemakers' courts of the Seneca nation to grant divorces, the same courts shall have jurisdiction of actions arising thereunder as if such Indians were citizens. But Indians who have heretofore or shall hereafter contract marriage according to the Indian custom or usage, and shall cohabit as husband and wife, shall be deemed lawfully married. Indian marriages may be solemnized by peace-makers within their jurisdiction with the same force and effect as by a justice of the peace.

**§ 4. Pawns or pledges for liquor.**—Any person who shall receive from any Indian, any article of personal property in payment or exchange, or in pawn or pledge for payment, wholly or partly, for any spirituous liquor or intoxicating drink, sold or delivered to any Indian, shall be liable to a penalty of ten times the value of such article, recoverable by the agent or attorney of the nation, tribe or band to which such Indian belongs, or with which he resides, in the name of such nation, tribe or band, or of the people of the state. If there be no such agent or attorney, such action may be maintained in their name of office, by the overseers of the poor of the town in which the Indian resides.

Any such article or the value thereof may be recovered by the Indian selling, exchanging or pawning the same, within twenty days

thereafter, from any person having possession thereof. If such action shall not be brought within twenty days from the sale or pledge of such article, the peacemakers, if any, of the reservation to which such Indian belongs, and if none, the overseers of the poor of the town in which he resides, may recover such article in their name of office.

§ 5. **Actions in state courts.**—Any demand or right of action, jurisdiction of which is not conferred upon a peacemakers' court, may be prosecuted and enforced in any court of the state, the same as if all the parties thereto were citizens.

§ 6. **Exemption of reservation lands from taxation.**—No taxes shall be assessed, for any purpose whatever, upon any Indian reservation in this state, so long as the land of such reservation shall remain the property of the nation, tribe or band occupying the same.

§ 7. **Partition of tribal lands.**—Any nation, tribe or band of Indians which owns and occupies land in this state as the common property of such nation, tribe or band may, by the act of its Indian government, divide such lands into lots, and distribute and partition the same, quantity and quality relatively considered, among the individuals and families of such nation, tribe or band, so that the same may be held in severalty and in fee simple, according to the laws of this state. No lands occupied and improved by any Indian according to the laws, usages or customs of the nation, tribe or band shall be set off to any person other than the occupant or his family. The officers, agents or commissioners to execute the deeds to effect such partition shall be appointed by the nation, tribe or band, whose lands are to be distributed, subject to the approval of the commissioners of the land office. They shall go before the county judge of the county in which such lands are situated, and prove to his satisfaction that they are authorized to effect such transfers, and shall acknowledge before him the deeds necessary therefor. The county judge shall examine such deeds, and his indorsement thereon that he has examined the same, and that they are executed in pursuance of authority duly conferred, shall authorize the county clerk to record such deeds.

Lands partitioned or distributed in pursuance of this section shall not be subject to any lien or incumbrance, by way of mortgage, judgment or otherwise, or be alienable by the grantee or his heirs, for twenty years after the recording of the deed effecting the partition; but may be partitioned among the heirs of a grantee who dies.



§ 8. **Intrusions on tribal lands.**—Except as otherwise provided by law, no person shall settle or reside upon any lands owned and occupied as common lands by any nation, tribe or band of Indians, except the members of such nation, tribe or band; and any lease, contract or agreement permitting such residence shall be void. The county judge of the county in which such lands are situated, upon complaint made to him, of such illegal residence, shall, if he thinks there is reasonable ground therefor, issue a notice directed to the person against whom complaint is made, requiring him to appear before such judge at a time and place therein specified, to answer the complaint. Such judge shall attend at the time and place mentioned in the notice, and upon proof of the personal service of such notice, shall take proof of the facts alleged in the complaint, and shall determine whether such person is an intruder upon the lands of such reservation. If he shall determine that such person is an intruder, he shall issue a warrant to the sheriff of the county commanding him, within ten days after the receipt thereof, to remove such person from such lands. If such judge shall determine that such person has been removed from such lands on a previous occasion, he shall issue his warrant commanding the sheriff, within ten days from the receipt thereof, to remove such person and commit him to the county jail for the space of thirty days, without being entitled to the limits or the liberties of such jail; and such judge shall cause such conviction to be drawn up and filed in the office of the county clerk, which conviction shall be final. In the execution of either of such warrants the sheriff shall have the same powers as in the execution of criminal process, and shall be paid by the state such compensation as the comptroller shall certify as reasonable.

The district attorney of any county in which reservation lands are situated, upon the written application of a majority of the chiefs, councilors or head men of the nation, tribe or band owning and occupying such lands, shall make complaint of any intrusions on such lands, and cause the intruders to be removed.

§ 9. **Residence of other Indians on tribal lands.**—The chiefs, head men or councilors of any nation, tribe or band of Indians, in council assembled, may, by a majority vote, grant a written permit to any Indian not a member of such nation, tribe or band, to reside upon the tribal lands thereof. Such chiefs, head men or councilors, in council assembled, may limit the time and regulate the terms upon which any Indians, not members of such nation, tribe or band,

may settle or reside upon such tribal lands. The permit shall describe the boundaries of the land permitted to be occupied, the length of time and the terms upon which such Indian may reside upon such land, and shall be signed by the presiding officer and the secretary or clerk of the council. All leases, contracts and agreements, not authorized by this chapter, whereby any Indians not members of such nation, tribe or band, shall be permitted to reside on the tribal lands of such nation, tribe or band shall be void; and the Indians illegally occupying such lands shall be liable to removal as intruders.

§ 10. **Licenses to reside upon tribal lands.**—A county judge of a county in which lands of any nation, tribe or band of Indians are situated, may, upon the request of such nation, tribe or band, grant a written license to a schoolmaster, teacher or family of teachers to reside upon such lands, and for that purpose to occupy not to exceed fifty acres thereof, or may grant a written license to a person to reside upon such lands for the purpose of instructing the Indians in agriculture or the mechanic arts, or assisting them in erecting or in keeping in repair a mill or other machinery, or in the manufacture of salt. Such judge may revoke such license, and shall revoke it whenever it shall appear that the licensee has sold or given away to any Indian spirituous liquor or intoxicating drink. Upon the revocation of any such license, the licensee may be removed as an intruder.

§ 11. **Trespasses on tribal lands.**—An action may be brought, in the name of the people of the state, against any person other than an Indian, trespassing upon tribal lands, by the district attorney of the county in which such lands are situated, upon security for the payment of the costs of such action being given to his satisfaction, or in the name of the nation, tribe or band, by any three of the chiefs, head men or councilors thereof, upon security being given to the satisfaction of the county judge of the county in which such lands are situated, for the payment of the costs of such action. The security for the payment of costs, as provided by this section, shall be filed, if the action is before a justice of the peace, with him, and otherwise, in the office of the county clerk. The damages recovered, after paying expenses, shall be distributed among the Indians occupying such lands.

§ 12. **Highways on tribal lands.**—Commissioners of highways of towns in which an Indian reservation is wholly or partly situated shall have the same power and jurisdiction over the portion of the reservation in their respective towns, to improve highways already

laid out therein, as is conferred upon such commissioners by the highway law, except that the written decision of the commissioners shall be served upon the agent, attorney or some other officer of the nation, tribe or band occupying such reservation; from which decision, such Indians may, within sixty days after the service thereof, appeal to the county judge of the county in which such lands are situated, whose decision shall be final. Such commissioners of highways may, with the consent of the tribal or national authorities of the nation, tribe or band occupying such reservation, lay out and establish as provided by law, highways on or across such reservation, and the highway commissioners of the town shall thereafter be charged with the maintenance of such road and the bridges thereon. This section shall not authorize the taxation of an Indian who is not a citizen.

**§ 13. Powers of commissioners of land office in relation to Indians.**—The commissioners of the land office, with the approval of the governor, shall hear and determine all questions which may arise in relation to moneys under the control of the state, belonging to any nation, tribe or band of Indians, or any individual Indian or his descendants, and all questions which may arise between the various parties of such tribe or nation in relation to any of their lands, or the avails thereof; and shall make such treaties, contracts and arrangements with any such nation, tribe or band, or individuals, who have any claim upon any land in this state, or any money belonging to them under the control of the state, or for the purchase of any portion of such lands, as they may deem just and proper, or in relation to the expense of laying out and keeping in repair any public road passing through any lands occupied by Indians.

**§ 14. Trust funds for Indians.**—The commissioners of the land office shall receive from any nation, tribe or band of Indians residing in the state, any sums of money which such Indians may wish to put in trust with the state of New York, upon condition that the interest or income thereof shall be paid over and applied, under the direction and in the discretion of such commissioners, for the encouragement of religion and the promotion of education among the Indians, or for any other purpose of public interest, use and benefit, which is a proper subject of taxation. Such money shall be paid into the treasury and, under the direction of such commissioners, invested by the comptroller in safe securities or in bonds of the state bearing interest at the rate of five per cent, to be created and issued therefor, and called "The Indian loans."

§ 15. **Freedom from toll and ferriage.**—The Indians of the six nations may pass and repass free of toll and ferriage, at all seasonable times of the day, on any turnpike road, which shall have been established since April 6th, 1803, or which shall hereafter be established, leading from or through the town of Canandaigua to Buffalo creek or its vicinity, and over any toll bridge between those places, and at the ferry across the Niagara river at or near Black Rock, or at such place or places in its vicinity where any ferry shall have been established since such time, or shall hereafter be established.

## ARTICLE II.

### THE ONONDAGA TRIBE.

SECTION 20. **Appointment, terms of office and qualifications of the agents of the Onondaga Indians**

- 21. Duties of agents.
- 22. Cutting and removing timber.
- 23. Consent of agent to certain contracts.
- 24. Leases.
- 25. Medical aid and assistance.
- 26. Plank road on reservation.

§ 20. **Appointment, terms of office and qualifications of the agents of the Onondaga Indians.**—The offices of agent of the Onondaga Indians residing on the Onondaga reservation, and of agent of the Onondaga Indians residing on the Allegany, Cattaraugus, Tuscarora and Tonawanda reservations, are continued. Each of such agents shall be appointed by the governor, by and with the advice and consent of the senate. The term of office of the agent of the tribe on the Onondaga reservation shall be one year, and of such other agent, four years. The compensation of each agent shall be paid by the state as follows: To the agent of the tribe on the Onondaga reservation, an annual salary of two hundred dollars, and an amount equal to four per cent upon the annuity money distributed by him in pursuance of law; to such other agent, an annual salary of one hundred and fifty dollars. Neither of such agents shall be further reimbursed for his expenses. Each such agent shall, before receiving any annuity moneys from the comptroller, execute and file with the comptroller an official undertaking in double the amount of the annuity moneys payable to him, in a form and with securities approved by the comptroller. The agent of the Indians on the Onondaga reservation shall reside in Onondaga county, near such reservation.

§ 21. **Duties of agents.**—Each of such agents shall annually, on or before the first Monday of June, prepare and transmit to the comptroller a correct enumeration of such of the Indians of which he is agent, as are entitled to receive annuity moneys from the state. The comptroller shall, upon receipt of such enumeration and undertaking, send to each such agent the annuity moneys payable by the state to the Indians of which he is agent. Each agent shall thereupon distribute such moneys to the Indians of which he is agent who are entitled thereto, paying the same to heads of families and individuals so far as practicable, and shall forthwith report such distribution to the comptroller. Each such agent shall protect the rights and interests of the tribe of which he is agent, and perform such other duties in relation to them as may be required by the governor.

§ 22. **Cutting and removing timber.**—No person other than an Onondaga Indian shall cut or remove from the Onondaga reservation any tree, timber, wood, bark or poles; and no Indian shall cut any tree, timber, wood, bark or poles for the purpose of sale or removal from such reservation, nor shall sell, remove, cause to be removed or aid in the removal from such reservation of any trees, timber, wood, bark or poles, except upon the written permission of a majority of the chiefs of the Onondaga tribe, particularly specifying the quantity and kind of trees, timber, wood, bark or poles to be cut or removed.

§ 23. **Consent of agent to certain contracts.**—Every contract which shall be made without the written consent of the agent of the Onondaga Indians, by any person other than an Indian, with any Indian of the Onondaga tribe, or with any Indian of any other nation or tribe residing or living with such Indians, for or concerning any stone, or any wood, timber or bark on the tribal lands of such nation, or that has been taken or removed from such lands, shall be void; and any person who, without such consent, shall receive from any such Indian or other person, any such stone, wood, timber or bark, on such reservation, or removed therefrom, knowing the same to have been taken or removed therefrom, shall be liable to a penalty of five times the value of such property, recoverable by the agent of such tribe, in the name of the people of the state, and payable upon recovery, after he has deducted his fees and the reasonable costs and expenses of collection, to the chiefs of such tribe for the benefit of the tribe.

§ 24. **Leases.**—An Indian residing on the Onondaga reservation and a member of the Onondaga tribe, owning or possessed of im-

proved lands therein, may lease such lands to white persons, for a term not to exceed ten years; but no individual Indian shall have the right to lease any lands to be used as a stone quarry. A majority of the chiefs of such tribe may, by a written contract drawn under the direction of the agent of such tribe and approved by his indorsement thereon, lease the stone quarries and national lands of the tribe, the expense of such contracts to be paid by the persons to whom the lands shall be leased. Any such contract without the consent of the agent shall be void.

§ 25. **Medical aid and attendance.**—The board of supervisors of the county of Onondaga shall annually employ a competent physician to attend upon and minister to the necessities of sick and indigent Indians residing on the Onondaga reservation, and to furnish them in addition to professional services, such necessary medicine food and attendance as he may deem proper. The bills of such physician, when properly verified, shall be audited by the board of supervisors of such county, and, upon their order, paid by the county treasurer, out of any moneys in his hands provided for that purpose. There shall annually be paid out of the treasury of the state to the treasurer of such county the sum of three hundred dollars, to be kept by him as a fund for the payment of such bills. If in any year such sum shall not be appropriated by the legislature, or shall be inadequate, the board of supervisors of such county may appropriate such sum of money as they may think necessary out of any moneys which may come into the treasury of such county, arising from that portion of the moneys collected as fines for selling liquor to the Indians and for trespasses upon Indian lands, which would otherwise be paid to the chiefs of the Onondaga Indians; but all such moneys shall be directly appropriated by the board of supervisors, upon the recommendation of the supervisor of the town of Onondaga and the agent of the Onondaga Indians, to be applied and disbursed in the same manner by such physician.

§ 26. **Plank-road on reservation.**—All Indians residing on the Onondaga reservation, or belonging to the Onondaga tribe, shall, as to the portion of the Syracuse and Tully plank-road constructed upon such reservation, and as to all gates erected within the bounds thereof, pass free of any charge or toll.



## ARTICLE III.

## THE SENECA INDIANS.

## SECTION 40. Use of terms.

41. Enumeration of officers.
42. Time and place of annual election.
43. Qualification of voters and eligibility to office.
44. The treasurer.
45. The clerk.
46. Compensation of peacemakers.
47. Peacemakers' courts.
48. Record of peacemakers.
49. Costs and fees.
50. Incompetency of peacemakers.
51. Appeals to council of Seneca nation.
52. Appeals from peacemakers' court of Tonawanda reservation.
53. Enforcement of judgments.
54. The marshal.
55. Prosecution of actions and disposition of recovery.
56. Allotment of lands.
57. Indian trespasses on common lands.
58. Encroachment by Indians on occupied lands.
59. Trees and timber on reservations.

§ 40. Use of terms.—In this chapter the Seneca Indians residing on the Allegany and Cattaraugus reservations are designated the Seneca nation, and the Seneca Indians residing on the Tonawanda reservation are designated the Tonawanda nation. For the purposes of voting and holding office, the Seneca Indians residing on the Cornplanter reservation in the New York Indian agency shall be treated as residents of the Allegany reservation. The councilors of the Seneca nation, and the chiefs of the Tonawanda nation, in council assembled, are designated, in this chapter, the council of each of such nations, respectively.

§ 41. Enumeration of officers.—The government of the Seneca nation by chiefs is abolished. Each nation shall have as officers a clerk and a treasurer. The Tonawanda nation shall have a marshal and three peacemakers. The Seneca nation shall have a marshal, three peacemakers and eight councilors for each of its reservations and a president. Each officer of each nation now in office shall continue in office until the expiration of the term for which he was chosen and until his successor shall be chosen.

§ 42. Time and place of annual election — There shall be a annual election in the Seneca nation on the first Tuesday of May, at the council house on the Cattaraugus reservation, or at the council



house on the Allegany reservation, if at the preceding annual election they shall have so directed by a majority vote. There shall be an annual election in the Tonawanda nation on the first Tuesday in June. At each such election in each nation, successors shall be elected to the officers of such nation whose terms shall expire with such election, or during the calendar month next thereafter; and vacancies shall be filled in any offices of the Seneca nation which shall not have been filled by special election. The oldest peacemaker present at each such election and the clerk of such nation shall be the president and clerk of the meeting, and shall keep minutes of the proceedings and results of such election. If either of such officers are absent from the meeting, the qualified voters, present thereat shall choose a qualified voter to act in his stead. The officers elected at such meeting shall be chosen upon the nomination of an elector, by ballot, or by the ayes and noes, as the meeting shall determine; and a plurality of votes shall be necessary to elect. The presiding officer and clerk of such meeting shall count the votes cast thereat and announce the result thereof. The result of such election shall be entered and certified by the president and clerk thereof in a book provided by such nation, called the register of elections, which book shall be evidence of the result of elections entered therein. The terms of office of each peacemaker elected at such annual election of the Seneca nation shall, unless elected to fill a vacancy, be three years, and of all other officers elected one year. The terms of office of the officers elected for the Seneca nation shall commence upon the completion of the canvass of the votes at the election, and of the officers elected for the Tonawanda nation on the first Tuesday of July next after the election.

§ 43. Qualification of voters and eligibility to office.— Every male Seneca Indian of full age, residing on the Allegany, Cattaraugus or Tonawanda reservations, who shall not have been convicted of a felony, shall be a qualified voter at all elections or meetings of the electors of his nation; and shall be eligible to any office filled thereat, except that the marshals, peacemakers and councilors of the Seneca nation shall be residents of the reservation for which they are chosen, and the peacemakers of the Tonawanda nation shall be chosen from among the chiefs thereof. The presiding officer of every such election or meeting may determine upon the right to vote of any Indian offering to vote thereat, and, if necessary, may examine such Indian or any other Indian under oath.

§ 44. **The treasurer.**—Within ten days after his election, and before performing any of the duties of or exercising any of the powers of his office, the treasurer of each nation shall give a bond to such nation, with such sureties and in such amount as the attorney of such nation shall approve, conditioned for the faithful performance of the duties of his office. For any breach of the conditions of such bond, an action may be maintained for the benefit of such nation, by their attorney, in the manner provided by law for the breach of an official bond given by a county treasurer. If such bond is not given within the time provided, the office shall be deemed vacant. The treasurer of the Seneca nation shall receive all moneys belonging to the nation, except the annuities paid by the government of the United States or the state of New York. The treasurer of the Tonawanda nation shall receive all moneys belonging to such band, which shall be deposited with him pursuant to any resolution of the council of such nation. The treasurer of each nation shall pay out moneys only upon a warrant certified by the presiding officer and clerk of the council to the effect, that the amount to be paid by such warrant, was appropriated by a resolution passed by a majority vote of the council, and if of the Seneca nation, passed by an affirmative vote of at least ten of the whole number of councilors elected, which warrant the treasurer shall retain as a voucher. The treasurer shall receive such compensation as the council shall determine. At least five days before the annual election, he shall report to the peacemakers an account of all moneys received and expended by him, with the vouchers for such expenditures, which account shall be settled by the peacemakers and read by the presiding officer at the next annual election.

§ 45. **The clerk.**—The clerk of each nation shall act as clerk at every annual or special meeting thereof, and in the meetings of the council of the nation. He shall have the custody of all the books, papers and records belonging to such nation. The council of each nation shall furnish the clerk thereof with a book, at the expense of the nation, in which he shall enter all proceedings and the results of all elections at every annual or special meeting of such nation; and all orders, rules, regulations and certificates made or granted by the council of the nation, and if of the Tonawanda nation, the names of the chiefs thereof. Every certificate, order or other matter certified by the clerk to be a true extract from his minutes shall be evidence thereof. The clerk shall receive an annual salary of not exceeding fifty dollars, to be determined by the council. The clerk of

the Tonawanda nation shall also act as clerk at all hearings before the peacemakers' courts, or any other tribunal established by law on their reservation, and shall enter in the record book of the peacemakers' courts all entries required to be made therein.

§ 46. **Compensation of peacemakers.**—The peacemakers shall receive an annual salary, to be fixed by the council, not exceeding fifty dollars, payable semi-annually by the treasurer.

§ 47. **Peacemakers' courts.** The peacemakers elected for each of the three reservations, the Allegany, the Cattaraugus and the Tonawanda reservations, shall respectively constitute the peacemakers' courts thereof, and the eldest peacemaker of each of such courts shall be the presiding officer thereof. Any two of the peacemakers of any reservation shall be competent to perform any of the duties or exercise any of the powers assigned to the peacemakers of such reservation.

The peacemakers' court of each such reservation shall have,

1. The same jurisdiction of the justice's court held by a justice of the peace, to hear and determine controversies between Indians residing on such reservation ;

2. Jurisdiction to hear and determine charges of encroachment or trespass on land cultivated or occupied by any Indian and entered or described in the clerk's book of records;

3. Jurisdiction to hear and determine all controversies involving the title to real property, between individual Indians residing on such reservation.

Such jurisdiction is in each case exclusive.

Peacemakers' courts shall not have jurisdiction to hear or determine any claim arising upon a contract originally made with a person other than an Indian, but otherwise every action brought in a peacemakers' court shall be brought in the name of the real party in interest. The processes and proceedings in such courts, including the right to jury trial therein, and the process for the enforcement of the judgments thereof, shall be the same as in justice courts held by a justice of the peace. A peacemakers' court of the Allegany or Cattaraugus reservations shall also have exclusive jurisdiction to grant divorces between Indians residing on such reservation. If either of the parties to a controversy of which a peacemakers' court has jurisdiction resides on the Allegany reservation and either of the other parties resides on the Cattaraugus reservation, the peacemakers' court of either reservation has jurisdiction thereof.

§ 48. **Record of peacemakers.**—The peacemakers of each reser-

vation shall be furnished by the council of the nation, with a record book, in which they shall cause an entry to be made by the clerk, of all matters heard and determined by them. Each such entry shall state the names of the parties to the action or proceeding, a brief statement of the subject thereof, the finding and determination of the peacemakers, or of a jury, in reference thereto, the amount of the award, the amount of costs and to whom allowed, the time within which the decision is to be complied with, and the date of such decision.

§ 49. **Costs and fees.**—All fees received by the peacemakers shall be paid to the treasurer of the nation for its use. In every action or proceeding before them costs shall be paid by the party against whom the decision is made, which shall include the fees of the marshal, fifty cents each for the attendance of the peacemakers at the hearing, and if the hearing is adjourned, twenty-five cents each for each adjournment, and twenty-five cents each for each juror, where the trial is by jury. The costs allowed shall be specified by them in their decision.

§ 50. **Incompetency of peacemakers.**—A peacemaker shall not act in any case where he shall be related by blood to either of the parties within the fourth degree by the common law, or has any interest in the action or proceeding. If two members of a peacemakers' court of the Seneca nation, having jurisdiction of an action or proceeding, shall be incompetent to act, such action or proceeding shall be heard and determined before the peacemakers' court of the other reservation of such nation, in the same manner as if such court had original jurisdiction thereof; and if two members of the peacemakers' court of the Tonawanda reservation shall be incompetent to act, the remaining peacemaker shall associate with himself any two chiefs residing on the reservation not disqualified by such relationship or interest, for the hearing and determination of the action or proceeding, and such peacemakers and chiefs, or any two of them, shall have all the power and authority conferred upon peacemakers in relation to such action or proceeding.

§ 51. **Appeals to council of Seneca nation.**—Within twenty days after the decision of a peacemakers' court of the Seneca nation, an appeal may be taken to the council of such nation, by serving upon the adverse party and upon the peacemakers before whom the action or proceeding was heard a notice of such appeal. The peacemakers shall certify the evidence taken before them to the council. The appeal shall be heard by at least a quorum of the council, and

shall be decided upon the evidence taken in the peacemakers' court. Upon the hearing any party shall have the right to appear either in person or by counsel and argue the merits of the case. The decision of the council shall be conclusive.

§ 52. Appeals from peacemakers' court of Tonawanda nation.—An appeal may be taken from the decision of a peacemakers' court of the Tonawanda nation, or of a tribunal of such nation consisting of a peacemaker and one or more associate chiefs, to a court consisting of six chiefs of such nation, selected as follows: The party appealing shall give security, approved by the tribunal before which the action or proceeding was tried, for the payment of the amount awarded by such appellate court. Upon such security being given, such trial court shall direct the marshal to summon twelve chiefs, designated by such trial tribunal, to appear at a time and place specified, not more than ten days thereafter. At such time the names of such chiefs shall be drawn by lot, and the first six whose names are drawn, and who are not disqualified because of interest or relationship, shall constitute a court for the hearing and determination of such appeal. Such court shall hear the appeal, and examine the witnesses and parties under oath in the same manner as the peacemakers in a determination before them. Upon such hearing, the chiefs constituting the court shall be entitled to receive twenty-five cents each for their services, to be paid in the first instance by the party appealing. In their final decision, they shall determine which party shall pay the costs and expenses of the suit and of the appeal.

§ 53. Enforcement of judgments.—The judgment of a peacemakers' court, or of a substitute or appellate tribunal, of the Seneca or Tonawanda nations, shall, for all purposes, except for the purposes of appeal, be deemed a judgment of a justice's court. If the judgment be for other than money only, and such as justices' courts have not jurisdiction to render, the peacemakers' court may issue process for the enforcement thereof, conforming, as near as may be, to the process for the enforcement of a similar judgment of a court of record.

§ 54. The marshal.—The marshal for each reservation shall have the same powers and duties within the reservation for which he is chosen, as a constable within the town for which he is chosen, shall be entitled to the same fees, and shall be subject to the same liabilities, except that the marshal shall not be required to give an official undertaking, and all the powers of a sheriff within the county for

which he is chosen for the execution of final process from peace-makers' courts, issued for the enforcement of judgments of such courts, which justices' courts have not jurisdiction to render.

§ 55. **Prosecution of actions and disposition of recovery.**—The Seneca nation may prosecute by the name of "The Seneca Nation of Indians," actions and proceedings to protect their rights and interests to the Allegany, Cattaraugus and "Oil Spring reservations," and in every action or proceeding in relation to lands or real property situated within such reservations may allege a seizin in fee; but such recovery shall not in any way affect the right, title and interest of such Indians in such reservations, as between them and the grantee or the assignee of the pre-emption right of such reservations, under the grants of the state of Massachusetts. Actions or proceedings may be prosecuted by the Tonawanda nation by the name of "The Tonawanda Nation of Indians." If a bond or undertaking shall be necessary for the prosecution or defense of an action or proceeding, the attorney of either of such nations, may, if authorized by the council, execute a bond or undertaking in the name and in behalf of the nation, which nation shall be liable thereon. If any costs shall be recovered against either of such nations in any action prosecuted or defended by the attorney thereof, no execution shall be issued therefor, but such costs shall be paid by the treasurer of the state, out of any annuity or interest money payable by the state to such nation, upon producing to the comptroller a certificate of the attorney of such recovery, and a certified copy of the judgment awarding such costs. All sums recovered in any action brought by the attorney thereof for the benefit of either of such nations, after deducting such costs and expenses as shall be certified to by the judge before whom the case was tried and judgment rendered, shall be paid to the treasurer of the nation.

§ 56. **Allotment of lands.**—All lands on either the Allegany, Cattaraugus or Tonawanda reservations, except such as have been allotted by the national council, or lands on the Allegany and Cattaraugus reservations, appropriated, cultivated and improved by any Indian or Indian family, or the heirs thereof, after November 15th, 1847, in accordance with the laws and usages of the Seneca nation, or lands on the Tonawanda reservation, to which the possessors have become entitled in pursuance of law without an allotment, and descriptions of which have been recorded in the clerk's book of records, shall be held in common by the Seneca and Tonawanda nations respectively, and be subject to the control of the council thereof. The



common land shall not be appropriated by any Indian to his own use without the consent of the council, who shall, on application, allot to any Indian or Indian family, so much of the common lands as they shall deem reasonable and an equitable proportion in reference to the whole number not possessing land. A description of the land desired shall be submitted to the council. Upon the approval of the council, certified by the presiding officer and clerk thereof, such description may be recorded in the clerk's book of records. A description of lands on the Tonawanda reservation, appropriated, cultivated and improved by any Indian or Indian family or the heirs thereof, after November 15th, 1847, may be recorded at any time in the clerk's book of records. The possessors of lands on the Allegany, Cattaraugus and Tonawanda reservations, descriptions of which are recorded, shall, from the time of recording only, be entitled to maintain suits for encroachment or trespass thereon.

§ 57. **Indian trespasses on common land.**—If any Indian of either the Seneca or Tonawanda nation shall occupy any of the common lands of his nation without having obtained from the council an allotment thereof, as required by law, the council shall cause a notice to be served upon such Indian, signed by the presiding officer and clerk thereof, describing the lands so occupied, and requiring such Indian to remove therefrom, or within ten days after the personal service upon him of such notice, to show cause at a time and place therein mentioned, before the council, why he should not be removed therefrom. If such Indian shall not remove from such lands as required by the notice, or shall not show sufficient cause to the council why he should not be removed therefrom, the council, upon due proof of the personal service of such notice on the person to whom it was directed, and that the lands occupied by such person are common lands of the nation not held by such person in pursuance of law, shall issue an order to the marshal of the reservation on which such lands are situated, commanding him to forthwith remove such person, which order shall be signed by the presiding officer and clerk of the council.

§ 58. **Encroachment by Indians on occupied lands.**—Whenever complaint shall be made to the peacemakers of either the Allegany, the Cattaraugus or the Tonawanda reservation, by any Indians lawfully residing upon any cultivated lands of such reservation which shall have been entered and described in the clerk's book of records, that an encroachment is being made by other Indians on such lands, they shall issue a notice to the persons against whom complaint is



made, stating the cause of complaint and requiring such persons to appear before them, at a time and place therein specified to show cause why the complainant should not be put into full and peaceable possession of such land ; which notice shall be immediately served upon such persons.

At the time and place mentioned in such notice, the peacemakers, on proof of the personal service of such notice on the persons against whom complaint is made, shall hear the proofs of the parties, and shall forthwith determine whether an encroachment has been made and the extent thereof. If they shall determine that an encroachment has been made, they shall issue an order to the marshal of such reservation, commanding him to forthwith remove such encroachments, and put the complainant into full possession of such lands.

§ 59. **Trees and timber on reservation.**— Except as provided by this section, no person shall cut, remove, cause to be removed or assist in removing from the Allegany, Cattaraugus or Tonawanda reservations any wood, trees or timber thereon, nor shall any Indian sell or dispose of any timber or trees on such reservations, or any manufacture therefrom ; and every such sale or disposition shall be void. Except as provided in this section, any person who shall cut, remove or cause to be removed from either of such reservations, or any Indian who shall sell or dispose of any trees or timber thereon, or any manufacture therefrom, shall be liable to a penalty of twice the value of such property, recoverable for the benefit of the nation occupying the reservation.

An Indian residing on the Allegany or Cattaraugus reservations, or any member of the Tonawanda nation residing on the Tonawanda reservation, may sell or dispose of, for his own benefit, any trees or timber, or the manufacture thereof, on any lands allotted to or entered by him ; and, upon obtaining a permit from the council, signed by the presiding officer and clerk thereof, may manufacture shingles or staves from any trees or timber on any wild lands of the nation not allotted to or entered by any other Indian, and may dispose of the same for his own benefit ; and, upon obtaining such permit, may cut and draw logs from such wild lands to be sawed into lumber and boards to be actually and in good faith used by him on such reservation, but not to be sold or disposed of by him. No person not a member of the nation occupying such reservation shall be employed by any Indian in manufacturing shingles or staves, or in removing timber, or in cutting down trees for that purpose.

The council of the Seneca nation may sell or dispose of any trees

or timber on the wild lands of the Allegany or Cattaraugus reservations, and the proceeds of such sale or disposition shall be for the benefit of such nation.

#### ARTICLE IV.

#### THE SENECA INDIANS ON THE ALLEGANY AND CATTARAUGUS RESERVATIONS.

##### SECTION 70. Confirmation of nationality.

71. Exclusion of villages from reservations ; lease of lands therein.

72. The president.

73. General powers and duties of the council.

74. The attorney.

75. Vacancies in elective offices.

76. Payment of annuities.

77. Policemen at annual fair.

§ 70. Confirmation of nationality.— The Seneca Indians residing on the Allegany and Cattaraugus reservations shall, subject to the limitations provided by law, hold and possess such reservations as a distinct community.

§ 71. Exclusion of villages from reservations ; lease of lands therein.— Those parts of the Allegany reservation included in the villages of Vandalia, Carrollton, Great Valley, Salamanca, West Salamanca and Red House, as surveyed, located and established pursuant to an act of congress approved February 19, 1875, have been constituted parts of the several towns within which they are located, and all the general laws of the state are extended over and apply to the same ; except that this section shall not authorize the taxation of any Indian or the property of any Indian, not a citizen of the United States. Lands in such villages held under lease from the Seneca nation of Indians, and which the holders thereof are entitled to have renewed by virtue of such act of congress, shall be for all purposes considered a freehold estate, and the right of dower and tenancy by the curtesy shall attach thereto, and such lands, upon the intestacy of the holder, shall descend the same as a freehold of inheritance. But the rights of the Indians in such leases shall descend as provided by the laws of the Seneca nation of Indians.

§ 72. The president.— The president of the Seneca nation shall preside over the deliberations of the council and shall have only a casting vote therein. He shall from time to time give to the council information of the state of the nation, and recommend such measures as he shall judge necessary and expedient ; and shall take care that the laws applicable to the nation be faithfully executed. He shall have power to convene the council in extra session as often as, in his

judgment, the interests of the nation require, and to fill all vacancies that may occur therein until such vacancy be filled by election. In the absence of the president, the council shall choose from among their own number a presiding officer, pro tempore.

§ 73. **General powers and duties of the council.**— The council of the Seneca nation shall meet annually on the first Tuesday of June, and in extra session whenever called by the president. Ten of the councilors shall be necessary to constitute a quorum for the transaction of business. The council shall have power,

1. To appropriate the moneys of the nation for the purpose of discharging the debts thereof, but all appropriations of public money shall be by an affirmative vote of at least ten of the councilors elected, and not to exceed five hundred dollars shall be appropriated in any year, except to discharge the debts and liabilities of the nation existing on October 22, 1868, without the approval of a majority of the electors of the nation voting at a meeting called for that purpose by the clerk of the nation, upon the order of the president;

2. To fix the salaries of all officers of the nation whose salaries are not defined by law;

3. To determine on the laying out and working of roads and highways, and to make by-laws for the regulation of such work;

4. To pass by-laws and ordinances, not inconsistent with law, for the protection and improvement of the common land of the nation, for the regulation of fences, for the prevention of trespasses of cattle and other animals, and for such other objects as the councilors shall deem proper and necessary; and may provide a penalty of not exceeding five dollars, for the violation of any by-law or ordinance, recoverable by any officer of the nation for the benefit of the nation, before the peacemakers' court of the reservation in which the offender resides or in which the offense was committed;

5. To make treaties, subject to the approval of at least three-fourths of the qualified voters and three-fourths of the mothers of the nation.

§ 74. **The attorney.**— The office of attorney of the Seneca nation of Indians shall continue. The governor shall appoint, by and with the advice and consent of the senate, to be such attorney, a person who shall have been an attorney and counselor of the supreme court for at least three years. The term of office of such attorney shall be three years and he shall be paid by the state an annual salary of one hundred and fifty dollars. He shall advise such Indians in relation to their affairs, and in relation to controversies between them-

selves, or with any other person; shall, with the assent of the council, prosecute such actions and proceedings as he may deem proper and necessary; and shall defend all actions brought against such nation of Indians, or any of them, by white persons. If any suit shall be brought by such attorney for such Indians, without the assent of the council, he shall not be entitled to demand of such nation, the costs of such suit, if he shall fail to recover, or be unable to collect such costs, of the defendants.

§ 75. **Vacancies in elective offices.**—If a vacancy shall occur in any office of the Seneca nation more than thirty days before an annual election, the clerk of such nation, within five days thereafter, shall cause to be posted, in at least three conspicuous places on each reservation of such nation, a notice of a special election for filling such vacancy, to be held at the council house where the last annual election was held, not less than ten nor more than fifteen days after the posting of such notice. The meeting shall be conducted in the same manner as an annual election, and a person elected to fill a vacancy shall hold office until the expiration of the original term.

§ 76. **Payment of annuities.**—The annuities due to such nation shall be payable to the council, or to an agent or committee appointed by the council, to be distributed according to the custom of such Indians.

§ 77. **Policemen at annual fair.**—The board of commissioners of the Niagara frontier police district may, upon the written request of at least five of the councilors of the Seneca nation, detail two or more policemen of such district to attend and preserve peace and good order at the annual fair of the Iroquois Agricultural Society on the Cattaraugus reservation; the reasonable expenses of such policemen to be defrayed by such nation.

## ARTICLE V.

### THE SENECA INDIANS ON THE TONAWANDA RESERVATION.

#### SECTION 80. General powers and duties of council.

- 81. Attorney.
- 82. Vacancies in elective offices.
- 83. Leases to white persons.
- 84. Sale of gypsum.
- 85. Payment of annuity.

§ 80. **General powers and duties of council.**—The council of the Tonawanda nation may determine upon the laying out and

working of roads and highways, and may make by-laws for the regulation of such work; may pass by-laws and ordinances, not inconsistent with law, for the protection and improvement of the common land of the nation; for the regulation of fences; and for the prevention of trespasses by cattle and other domestic animals; and may provide a penalty of not exceeding five dollars, for the violation or disobedience of any such by-law or ordinance, recoverable for the benefit of such nation by any chief or officer thereof, in any justice's court of the county of Genesee.

§ 81. **Attorney.**—The district attorney for the county of Genesee shall continue to be the attorney for the Tonawanda nation of Indians, and shall be paid by the state an annual salary of one hundred and fifty dollars. He shall advise such Indians in relation to their affairs, and in relation to controversies between themselves or with any other person; shall prosecute such actions and proceedings for them, or any of them, as he may deem proper and necessary; and shall, on a written complaint of a majority of the chiefs of such nation, when any trespass has been committed on the lands of such reservation, or any timber, wood or logs have been cut, carried away or converted by any person, not an Indian, to his own use, immediately commence the proper suit for the recovery of such property or of damages for such injury.

§ 82. **Vacancies in elective offices.**—If a vacancy shall occur in any office of the Tonawanda nation, any chief of such nation may call a special meeting of the chiefs thereof residing on such reservation, to be held at one of their council houses, by a notice specifying the time and place thereof, served on such chiefs personally or left at their respective places of residence at least five days before the time of such meeting. At such meeting the chiefs present shall appoint a clerk, and by a majority vote shall elect a person to fill such vacancy for the remainder of the unexpired term. The clerk of such meeting shall enter and certify the result of such election in the register of elections.

§ 83. **Leases to white persons.**—Any Indian residing on the Tonawanda reservation, who is a member of such nation, may lease on shares to any white person, improved land owned or possessed by him, by a written lease approved by the indorsement of the attorney of such nation thereon, and after having obtained a permit from a council of such nation signed by the presiding officer and clerk thereof. No permit shall be granted by such council, unless the Indian applying therefor, shall show to the satisfaction of suc

council, how much land he proposes to lease, that it is within the bounds of his occupied improvements, that it is inclosed by a lawful fence, that he has cultivated or is about to cultivate as much of his improvement as his ability will allow, and that the permit asked for only covers the leasing of such part of his improvements as he has not the ability or means to cultivate. Any such lease or contract made without such permit or without the approval of the attorney of such band shall be void. The person occupying under any such void lease shall be liable to be removed as an intruder. All rents due on any lease made in violation of this section, and all crops or produce raised thereunder shall be forfeited, and the value thereof shall be recoverable from the person violating this section, by the attorney of such nation, for the benefit thereof.

§ 84. **Sale of gypsum.**—The attorney of such nation, for the benefit of such nation, may contract for the sale of any gypsum or plaster stone upon the Tonawanda reservation, on such terms as he may deem just, but for not less than one dollar a cord in the quarry, which contract shall be in writing, to be performed within three years from the making thereof. A person purchasing such gypsum, at the time of contracting, shall execute a bond, with sufficient sureties, approved by such attorney, conditioned for the faithful execution of such contract, and the payment of the purchase price of such gypsum or plaster stone. Upon executing such bond, such person may lawfully enter upon such reservation, at the place or places designated in such contract, whether upon the common lands, or upon the individual improvements of the members thereof, for the purpose of quarrying and removing such gypsum or stone, doing no unnecessary damage or injury. Out of the moneys arising from such sale, the attorney shall pay to the persons entitled thereto, for any injury or damage necessarily done to individual improvements or property, by the quarrying or removal of such gypsum or stone, which damages, in case of disagreement, shall be fixed by three commissioners appointed by the county court of Genesee county, upon the application of the party aggrieved, three days notice of such application having been given to such attorney. The surplus moneys arising from such sale remaining in the hands of such attorney after the payment of such damages, shall be paid by him, for the benefit of such nation, to the Indian agent appointed by the United States government for the state of New York. Such money shall be added to the annuity granted by the United States to such nation, and distributed and paid over to such nation at the same time and in the



same manner as such annuity. Such agent shall receive for his services in receiving, distributing and paying over such moneys, five per cent of the amount received by him from the attorney of such nation.

§ 85. **Payment of annuity.**—The proportionate share of such nation to the annuity of five hundred dollars, agreed to be paid by the state of New York under a treaty dated September 12th, 1815, shall be paid by the treasurer of the state to the treasurer of the Tonawanda nation. Their proportionate share shall be determined by the ratio that their numbers bear to the whole number of Senecas residing in other parts of the state, having an interest in such annuity.

## ARTICLE VI.

### THE TUSCARORA NATION.

#### SECTION 90. Allotment of lands.

- 91. Consent of chiefs to sales of timber.
- 92. Indian trespassers.
- 93. Illegal sales of timber and trees.
- 94. Highway labor.

§ 90. **Allotment of lands.**—The chiefs or head men of the Tuscarora nation of Indians in the county of Niagara, in council, shall allot and set apart for any Indian or Indian family, making application and not possessing land so much of the tribal lands as they shall deem reasonable and just; and no tribal lands shall be appropriated by any Indian to his own use, without such consent and allotment. Such chiefs, in council, may appoint a clerk, who shall enter in a book kept for that purpose, every allotment of tribal lands, set apart for any Indian or Indian family, and of the part thereof from which such Indian or family may sell timber and trees, and of the part he is permitted to clear for the purposes of cultivation.

§ 91. **Consent of chiefs to sales of timber.**—Any Indian having tribal lands allotted to him by the chiefs, with the consent of such chiefs entered in the clerk's book, may sell for his own benefit any timber or trees on that portion of such lands which he shall actually and in good faith clear for the purpose of cultivation.

§ 92. **Indian trespassers.**—Any Indian who shall cut or destroy timber or trees on any of the timbered lands of such nation, or without the consent of such chiefs, shall be liable to a penalty of twice the value of the timber so cut down or destroyed, recoverable by such chiefs, in the name of the nation.



§ 93. **Illegal sales of timber and trees.**—Every sale or disposition without the consent of such chiefs, by any individual Indian or Indians, of any tree or timber on any of the tribal lands, or of any manufacture therefrom, shall be void. The chiefs may sell for the benefit of the nation any timber or trees on the wild lands of such nation, the proceeds of such sale to be paid to the chief whom the council shall appoint as treasurer. Such chiefs may bring an action against the person to whom such trees or timber are sold to recover the purchase price thereof, or against any person who shall have received any tree, timber, or the manufacture therefrom, unlawfully sold to recover the value thereof for the benefit of the nation. Any person who shall sell, take or carry from the lands of such nation any trees, lumber, or articles manufactured therefrom, without the consent of such chiefs, in any other case than is provided for in this section, shall be liable to a penalty of twice the value of such trees, timber, or manufactured articles, recoverable by such chiefs.

§ 94. **Highway labor.**—Such chiefs, in council, may annually, before the first day of July, assess such amount of highway labor as they shall deem just and reasonable, not exceeding fifteen days in any one year, upon each male Indian of full age. The number of days work and the name of the individual assessed shall be entered upon the roll made and signed by such chiefs or by the president of the council, under their direction. Such chiefs may also designate suitable persons to superintend the highway labor, and the plan and manner of its application. The persons so designated shall give notice to those assessed to perform such labor, and at least twenty-four hours notice of the time of performance. If any person so assessed, after being notified, shall neglect or refuse to perform such labor, he shall be liable to a penalty of seventy-five cents for each day's labor assessed, to be recovered by an action in the name of the nation, in which action the assessment-roll shall be conclusive evidence of the regularity of the assessment. For the purpose of such action, such Indian shall be regarded as an inhabitant of the town of Lewiston, Niagara county, and the proceedings shall be the same as between citizens. Any paper may be served upon such nation as a party by delivering it to any two chiefs personally.

## ARTICLE VII.

## THE SAINT REGIS TRIBE.

## SECTION 100. Appointment of attorney.

## 101. Powers and duties of attorney.

## 102. Timber and stone on such reservation.

§ 100. **Appointment of attorney.**—There shall continue to be an attorney of the St. Regis Indians, who shall hold office for the term of three years and shall receive an annual salary of one hundred and fifty dollars, payable by the state. The attorney in office at the time this chapter takes effect shall hold office until the expiration of the term for which he was appointed. Upon the expiration of such term the governor shall appoint a successor to such attorney. Such attorney shall execute a bond in the sum of four thousand dollars.

§ 102\*. **Powers and duties of attorney.**—The attorney of the St. Regis Indians

1. Shall receive from the comptroller the annuities due from the state to the St. Regis tribe of Indians;

2. Shall receive all other moneys belonging to the tribe;

3. Shall collect all moneys due on any of the tribal lands of the St. Regis reservation, which are leased or otherwise disposed of by such tribe for its benefit;

4. Shall pay over to the heads of the families of such tribe their equal shares of such annuities and other moneys received by him, belonging to such tribe;

5. May bring actions in the name of the people of the state for the recovery of any moneys due to such Indians for the lease of their lands; or, upon security for the payment of costs being given to his satisfaction, may bring an action for the recovery of the possession of such lands, the leases of which have expired, or for any trespass committed on lands possessed by any of such Indians; the damages recovered in such suits after deducting expenses to be paid to the persons entitled thereto;

6. Shall annually report to the comptroller on or before the first day of December, of all his proceedings under this section.

§ 103\*. **Timber and stone on such reservation.**—Any person other than an Indian who shall trespass on such reservation by cutting and removing timber, or removing stone therefrom, and any

\* So in the original.

Indian who shall cut and dispose of any timber or stone on such reservation, except for his own use, shall be liable to a penalty of three times the value of the property so cut or taken away. Any person who shall buy or receive any wood, timber or stone taken from such reservation without the written consent of the attorney for such tribe, shall be liable to a penalty of twice the value of such property. The attorney of such tribe upon giving satisfactory security for costs, may sue for the recovery of any penalty incurred under this section, and after paying the legal charges of such suit, shall pay over any penalty recovered by them to the attorney of such tribe.

## ARTICLE VIII.

### THE SHINNECOCK TRIBE.

#### SECTION 110. Election of trustees.

111. Powers of trustees.

112. Unlawful use of lands.

113. Laws repealed.

114. When to take effect.

§ 110. Election of trustees.—The adult male members belonging to the Shinnecock tribe of Indians in Suffolk county, may meet on the first Tuesday in April in each year, at the place for holding town meetings in the town of Southampton, and by a plurality of votes elect three persons, belonging to such tribe, as trustees. The town clerk of such town shall attend and preside at such meeting, and shall enter in a book kept by him for that purpose, the names of the trustees chosen. He shall also enter in such book the proceedings of such trustees and of the justices of such town in reference to the allotment or leasing of Indian lands.

§ 111. Powers of trustees.—Such trustees may allot the tribal lands to the individuals or families thereof; may direct on what part of such lands firewood and timber may be cut by such tribe; and, with the consent of three justices of the peace residing in or near the town of Southampton, may lease so much of such lands as they may deem for the benefit of the tribe, for a term not longer than three years.

§ 112. Unlawful use of lands.—Any person, not of such tribe, who shall hire, use or occupy any lands of such tribe, which have been allotted by the trustees thereof, or any person who shall occupy or use any of such lands without the consent of a majority of such trustees, and of at least two of such justices, obtained and entered in

the book of the town clerk kept for such purpose, shall be liable to a penalty of twenty-five dollars for every acre hired, used or occupied. Any person belonging to such tribe, who shall cut any wood or timber on such lands, without the order and consent of such trustees and justices entered in such book, shall be liable to a penalty of ten dollars for each offense. One-half of any such penalty shall be for the use of the overseers of the poor of the town of Southampton, and the other half shall go to any person who shall sue for the recovery thereof.

§ 113. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

§ 114. **When to take effect.**—This chapter shall take effect on May 1st, 1893.

#### SCHEDULE OF LAWS REPEALED.

##### CHAPTER 92 OF THE REVISED LAWS OF 1818.

LAWS OF	Chapter	Sections.
1816.....	114.....	All.
1816.....	133.....	All.
1817.....	143.....	All.
1817.....	152.....	All.
1818.....	283.....	1, 2.
1821.....	204.....	All.
1822.....	205.....	All.
1823.....	40.....	All.
1824.....	177.....	All.
1825.....	257.....	All.
1826.....	150.....	All.
1830.....	70.....	All.
1834.....	289.....	All.
1835.....	110.....	All.
1839.....	58.....	All.
1841.....	234.....	All.
1843.....	185.....	All.
1843.....	228.....	All.
1845.....	150.....	All.
1845.....	309.....	All.
1846.....	114.....	All.
1846.....	278.....	All.
1847.....	238.....	All.
1847.....	365.....	All.

**CHAP. 679] ONE HUNDRED AND FIFTEENTH SESSION. 1601****Ch. 5, G. L.****THE INDIAN LAW.**

<b>LAWS OF</b>	<b>Chapter</b>	<b>Sections.</b>
1847.....	486.....	All.
1848.....	36.....	2.
1848.....	208.....	All.
1849.....	378.....	All.
1849.....	420.....	All.
1850.....	37.....	All.
1851.....	198.....	All.
1852.....	19.....	All.
1853.....	444.....	All.
1853.....	601.....	All.
1854.....	175.....	All.
1854.....	301.....	All.
1855.....	26.....	All.
1855.....	233.....	All.
1857.....	45.....	All.
1857.....	233.....	All.
1857.....	494.....	All.
1857.....	614.....	All.
1857.....	659.....	All.
1858.....	73.....	All.
1858.....	206.....	All.
1858.....	369.....	All.
1859.....	280.....	All.
1859.....	374.....	All.
1860.....	491.....	All.
1861.....	134.....	All.
1861.....	325.....	All.
1863.....	90.....	All.
1864.....	81.....	All.
1865.....	124.....	All.
1867.....	839.....	All.
1871.....	703.....	All.
1873.....	96.....	All.
1873.....	394.....	All.
1873.....	454.....	All.
1873.....	455.....	All.
1875.....	162.....	All.
1875.....	226.....	All.
1878.....	307.....	All.
1878.....	320.....	All.
1881.....	188.....	All.
1881.....	355.....	All.
1884.....	316.....	All.
1887.....	121.....	All.
1887.....	255.....	All.
1887.....	316.....	All.
1889.....	554.....	All.

**CHAP. 680.**

**AN ACT** in relation to the elections, constituting chapter six of the general laws.

**APPROVED** by the Governor May 18, 1893; Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

**CHAPTER VI OF THE GENERAL LAWS.**

**ARTICLE** I. Times, places, notices, officers and expenses of elections. (§§ 1-19.)

II. Qualifications and registry of voters. (§§ 30-41.)

III. Primaries, conventions and nominations. (§§ 50-66.)

IV. Preparation of official ballots, sample ballots and instruction cards; distribution thereof to polling places. (§§ 80-89.)

V. The conduct of elections. (§§ 100-118.)

VI. County and state board\* of canvassers. (§§ 130-140.)

VII. Election of representatives in congress and electors of president and vice-president. (§§ 160-167.)

**ARTICLE I.****TIMES, PLACES, NOTICES, OFFICERS AND EXPENSES OF ELECTIONS.**

**SECTION** 1. Short title.

2. Date of general election.

3. Times of opening and closing polls of elections.

4. Filling vacancies in elective offices at general and special elections.

5. Notices of elections by secretary of state.

6. Notice of submission of proposed constitutional amendments, or other propositions.

7. Publication of concurrent resolutions, proposed constitutional amendments and other propositions.

8. Creation, division and alteration of election districts.

9. Maps and certificates of boundaries of election districts.

10. Designation of places for registry and voting; provision of furniture therefor.

11. Appointment of inspectors of election in cities.

12. Appointment of poll clerks and ballot clerks.

13. Ballot boxes.

14. Voting booths and guard rails.

15. Organization of board of inspectors; supplying vacancies and absences.

16. Preservation of order by inspectors at elections and at their meetings.

17. Payment of election expenses.

18. Election districts in towns including cities.

19. Transmission of election laws to clerks and election officers.

\* So in the original.

**SECTION 1. Short title.**—This chapter shall be known as the election law.

**§ 2. Date of general election.**—A general election shall be held annually on the Tuesday next succeeding the first Monday of November.

**§ 3. Times of opening and closing polls of elections.**—The polls of every general election, and, unless otherwise provided by law, of every other election, shall open, if in the city of New York, at six o'clock in the forenoon; if in any other city or in the county of Westchester, at sunrise; if in a town of any other county and outside of a city, between sunrise and nine o'clock in the forenoon; and shall close, if in the city of New York, at four o'clock in the afternoon, if elsewhere, at sunset. After the polls are open, there shall be no adjournment or intermission of the election, until the polls are closed.

**§ 4. Filling vacancies in elective offices at general and special elections.**—A vacancy occurring before October fifteenth in any year, in an office authorized to be filled at a general election, shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election, or unless a special election therefor shall have been ordered to be held on or after such fifteenth day of October and before such general election.

Upon the failure to elect to any office, except governor or lieutenant-governor, at a general or special election at which the office is authorized to be filled; or upon the death or disqualification of a person elected to office at a general or special election before the commencement of his official term; or upon the occurrence of a vacancy in any elective office, which cannot be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor shall make proclamation of a special election to fill such office, specifying the district or county in which the election is to be held, and the day thereof, which shall be not less than twenty nor more than forty days from the date of the proclamation.

A special election shall not be held to fill a vacancy in the office of a representative in congress, unless such vacancy occur on or before the first day of July of the last year of the term of office, or unless occurring thereafter and a special session of congress be called to meet before the next general election, or be called after October fourteenth of such year; nor to fill a vacancy in the office of state



senator, unless the vacancy occur before the first day of April of the last year of the term of office; nor to fill a vacancy in the office of a member of assembly, unless occurring before the first day of April in any year, unless the vacancy occur in either such office of senator or member of assembly, after such first day of April, and a special session of the legislature be called to meet between such first day of April and the next general election, or be called after October fourteenth of such year.

If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

**§ 5. Notices of elections by secretary of state.**—The secretary of state shall, at least three months before each general election, make and transmit to the county clerk of each county, a notice under his hand and official seal, stating the day upon which such elections shall be held, and stating each officer, except city, village and town officers, who may lawfully be voted for at such election by the electors of such county, or any part thereof.

If any such officer is to be elected to fill a vacancy, the notice shall so state. The secretary of state shall forthwith, upon the filing in his office of the governor's proclamation ordering a special election, make and transmit to each county clerk, a like notice of the officers to be voted for at such special election in such county or any part thereof, and cause such proclamation to be published in the two newspapers published in such county having the largest circulation therein, at least once a week until such election shall be held.

Each county clerk shall forthwith, upon the receipt of either such notice, file and record it in his office.

**§ 6. Notice of submission of proposed constitutional amendment or other proposition.**—If it is provided by law that a constitutional amendment or other proposition or question shall be submitted to a popular vote at a general election, the secretary of state shall include in his notice to the county clerk, of the general election, a copy of such amendment, proposition or question, with the forms of the ballots to be voted thereon; and if more than one such amendment, proposition or question is to be voted upon at such election, the amendments and ballots shall be separately and consecutively numbered.

If such amendment, proposition or question is to be submitted at a special election, the secretary of state shall, at least twenty days before the election, make and transmit to each county clerk a like

notice. Each county clerk shall, forthwith upon the receipt of either such notice, file and record it in his office.

§ 7. Publication of concurrent resolutions, proposed constitutional amendments and other propositions.— The secretary of state shall cause each concurrent resolution of the two houses of the legislature agreeing to a proposed amendment to the constitution, which is referred to the legislature to be chosen at the next general election of senators, to be published once a week for three months next preceding such election, in two newspapers published in each county, representing the two political parties polling the highest number of votes at the then last preceding general election, and in one additional newspaper published in each county for every one hundred thousand people in such county, as shown by the then last preceding federal or state enumeration. Such additional newspapers shall be selected by the secretary of state with reference to making such publications in newspapers having the largest circulation in the county in which they are published.

If such resolution does not state that such proposed amendment is so referred to such legislature, the secretary of state shall publish in connection with the publication of such concurrent resolution, a statement that such amendment is referred to the legislature to be chosen at the next general election.

The secretary of state shall cause such proposed amendment to the constitution or other proposition or question, which is by law to be submitted to the electors of the state at a general or special election, to be published for the like period before such election in newspapers selected in like manner, together with a brief statement of the law or proceedings authorizing such submission, the fact that such submission will be made, and the forms of the ballots to be voted thereon.

If such proposed amendment or other proposition or question is to be submitted at a special election to be held less than three months from the time of appointing it, the first publication in each newspaper shall be made as soon as practicable after such appointment, and shall continue once in each week to the time of the election.

§ 8. Creation, division and alteration of election districts.— Every town or ward of a city not subdivided into election districts, shall be an election district.

The town board of every town containing more than four hundred voters, and the common council of every city, except New York and Brooklyn, in which there shall be a ward containing more than

four hundred voters, shall, at least thirty days before the election of inspectors of election, divide such town or ward respectively into election districts, each of which shall be compact in form, wholly within the town or ward, and shall contain not more than four hundred voters. If any part of a city shall be within a town, the town board shall divide, into election districts, only that part of the town which is outside the city, and no election district including any part of a city shall include any part of a town outside of a city.

A town, or a ward of a city, containing less than four hundred voters may, at least thirty days before the election of inspectors of election of such town or ward, be divided into election districts by the town board of the town or the common council of the city, when, in the judgment of such board or council, the convenience of the voters will be promoted thereby.

The creation, division or alteration of an election district shall not take effect until the town meeting or city election occurring next thereafter, and at such town meeting or city election, inspectors of election shall be elected for such district. If the creation, alteration or division of an election district is rendered necessary by the creation or alteration of a town, or ward of a city, it shall take effect immediately. If inspectors are not elected for such district before September first next thereafter, the town board of the town or the common council of the city shall appoint three inspectors of election of such district.

No such new town or ward shall be subdivided into election districts between the first day of September and the day of the general election next after the creation of such new town or ward.

**§ 9. Maps and certificates of boundaries of election districts.**—When a ward of a city, except New York and Brooklyn, shall be divided into two or more election districts, the common council of the city shall forthwith make a map or description of such division, defining it by known boundaries, and cause such map or description to be kept open for public inspection in the office of the city clerk, and cause copies thereof to be posted in at least ten of the most public places in each election district of such ward; and shall, prior to every election, furnish copies of such map and description to the inspectors of election in each election district of such ward.

The officers creating, dividing or altering an election district in a town, shall forthwith make a certificate thereof, exhibiting the districts as so created, divided or altered, and their numbers respectively, and file the same in the town clerk's office.

§ 10. Designation of places for registry and voting ; provision of furniture therefor.—On the first Tuesday of September of each year, the town board of each town, and the common council of each city, except New York and Brooklyn, shall designate the places in each election district in the city or town, at which the meetings for the registry of voters and the elections shall be held during the year. Each room so designated shall be of a reasonable size, sufficient to admit and comfortably accommodate at least twenty electors at a time, outside of the guard rails. No building or part of a building shall be so designated in any city, if within sixty days before such designation, intoxicating liquors, ale or beer shall have been sold in any part thereof. No room shall be so designated elsewhere than in a city, if, within sixty days before such designation, intoxicating liquors, ale or beer shall have been sold in such room, or in a room adjoining thereto, with a door or other passageway between the two rooms. No intoxicating liquor, ale or beer shall be sold in such building in a city, or in such room or adjoining room elsewhere, after such designation and before the general election next thereafter, or be allowed in any room in which an election is held during the day of the election. If any place so designated shall thereafter and before the close of the election be destroyed, or for any reason become unfit for use, or can not for any reason be used for such purpose, the officers charged with the designation of a place for such election, shall forthwith designate some other suitable place for holding such election. Not more than one polling place shall be in the same room.

The officers authorized to designate such places in any town or city, shall provide for each polling place at each election, the necessary ballot and other boxes, guard rail, voting booths and supplies therein, and the other furniture of such polling place, necessary for the lawful conduct of each election thereat, shall preserve the same when not in use, and shall deliver all such ballot or other boxes for each polling place with the keys thereof to the inspectors of election of each election district at the opening of the polls of each election.

§ 11. Appointment of inspectors of election in cities.—Unless otherwise provided by law, the common council of each city shall appoint three inspectors of election for each election district of such city, from the voters of the district belonging to the political parties polling the highest and next to the highest number of votes at the next preceding general election. Not more than two inspectors for

one district shall belong to the same political party. The term of office of each such inspector shall be one year from the time of his appointment.

**§ 12. Appointment of poll clerks and ballot clerks.**—There shall be two poll clerks and two ballot clerks in each election district, who shall be voters therein, and shall be able to read and write the English language. One of such poll clerks and one of such ballot clerks shall belong to the political party polling the highest number of votes for state officers at the next preceding general election at which state officers were elected; and one poll clerk and one ballot clerk shall belong to the political party polling the next highest number of votes for such officers thereat. At the first meeting of the inspectors of election in every district in which the law provides for the election of inspectors, the inspectors elected shall appoint one of the poll clerks and one of the ballot clerks; and the inspector appointed shall appoint the other poll clerk and ballot clerk. Such appointments shall be in writing, signed by the inspectors making the appointments respectively, and shall be filed by them with the town clerk of the town, or the city clerk of the city in which such election district is situated. The poll clerks and ballot clerks so appointed shall hold their offices during the terms of office of the inspectors appointing them.

The term inspectors elected, as used in this section, shall include inspectors appointed to fill vacancies in the offices of inspectors authorized to be elected.

If the law provides for the appointment of all the inspectors of any election district, the authority appointing such inspectors shall appoint the poll clerks and ballot clerks of such district, for the same terms of office as the inspectors.

If at the time of any election at which poll clerks and ballot clerks are required to be present at the polling place in any election district, the office of a poll clerk or of a ballot clerk of such district shall be vacant, or a poll clerk or a ballot clerk of the district shall be absent, the inspectors of election of such district shall forthwith appoint a person to fill such vacancy; or designate a person to act in the place of such absent poll clerk or ballot clerk, until he shall appear. Each person so appointed or designated shall, before he acts as such poll clerk or ballot clerk, take the constitutional oath of office.

**§ 13. Ballot boxes.**—There shall be but one ballot box at each polling place for receiving all ballots cast for candidates for office, except for commissioners of excise in towns. If proposed constitu-

tional amendments, or other propositions or questions, may lawfully be voted upon thereat, there shall be one ballot box at each polling place for the reception of ballots upon each such amendment or proposition or question, which shall be labeled and numbered to correspond with such amendments, propositions or questions, respectively. There shall be at each polling place, as many other boxes as may be required by law to receive unvoted ballots. Each such ballot or other box shall be provided with a sufficient lock and key, and with an opening in the lid large enough and not larger than may be necessary to allow a single folded ballot to be easily passed through such opening into the box. Each such box shall be large enough to properly receive and hold all ballots which may lawfully be deposited therein at any election.

§ 14. Voting booths and guard rails.—There shall be in each polling place during each election, a sufficient number of voting booths not less than one for every fifty voters in the election district. Each such booth shall be at least three feet square, shall have four sides inclosed, each at least six feet high, and the one in front shall open and shut as a door swinging outwards and shall extend to within two feet of the floor. Each such booth shall contain a shelf which shall be one foot wide extending across one side of the booth at a convenient height for writing, and shall be furnished with such supplies and conveniences, including shelves, pens, ink, blotting paper, pencils and mucilage as will enable the voters to conveniently prepare their ballots for voting. Each booth shall be kept clearly lighted while the polls are open, by artificial lights, if necessary.

A guard rail shall be so constructed and placed at each polling place that only such persons as are inside such rail can approach within six feet of the ballot boxes, and of the booths. The arrangement of the polling place shall be such that the booths can only be reached by passing within the guard rail, and that the booths, ballot boxes, election officers, and every part of the polling places, except the inside of the booths, shall be in plain view of the election officers and of persons just outside the guard rail.

§ 15. Organization of board of inspectors ; supplying vacancies and absences.—Before otherwise entering upon their duties, the inspectors of each district shall meet and appoint one of their number chairman. If at the time of any meeting of the inspectors or when any such meeting is required by law to be held, there shall be a vacancy in the office of any inspector, or if any inspector shall be absent from such meeting, the inspector or inspectors present shall



appoint a qualified elector of the district to fill such vacancy or to act as inspector in the place of each absent inspector, until such absent inspector shall appear.

If at any such time, the offices of all inspectors are vacant, or no inspector shall appear within one hour after the time fixed by law for the opening of such meeting, the qualified voters of the district present, not less than ten, may designate three qualified voters of the district to fill such vacancies, or to act in the place of such inspectors respectively until the absent inspectors respectively appear.

Such appointments and designations shall be made from the political parties polling the highest and next highest number of votes for state officers at the next preceding general election for such offices, and so that not more than two of such inspectors shall belong to the same political party.

Every person so appointed or designated to act as inspector shall take the oath of office required of inspectors of election.

**§ 16. Preservation of order by inspectors at elections and their meetings.**—All meetings of the board of inspectors shall be public. They shall have full authority to preserve peace and good order at such meetings and around the polls of an election, and to keep the access thereto open and unobstructed, and to enforce obedience to their lawful commands during their meetings. They may appoint one or more electors to communicate their orders and directions, and to assist in the performance of the duties in this section enjoined.

If any person shall refuse to obey the lawful command of the inspectors, or by disorderly conduct in their presence or hearing, shall interrupt or disturb their proceedings, they may make an order directing the sheriff or any constable of the county, to take the person so offending into custody and detain him until the final canvass of the votes shall be completed; but such order shall not prohibit the person so taken into custody from voting at such election.

Such order shall be executed by any sheriff or constable to whom the same shall be delivered; or if none shall be present, by any other person deputed by such board in writing.

**§ 17. Payment of election expenses.**—The expense of providing polling places, voting booths, supplies therefor, and other furniture of the polling place, and the compensation of the election officers in each election district, shall be a charge upon the town or city in which such election district is situated, except that such



expenses incurred for the purpose of conducting a village election not held at the same time as a general election, shall be a charge upon the village.

The expense of printing and delivering the ballots and cards of instruction to be used at a town meeting, city or village election, not held at the same time as a general election, and of printing the lists of nominations therefor, shall be a charge upon the town, city or village in which the election is held.

The expense of printing and delivering the ballots and cards of instruction to be used in any county at any other election, if no town meeting, city or village election be held at the same time therewith, and of printing the lists of nominations therefor, shall be a charge upon such county.

The expense of printing and delivering the ballots and cards of instruction to be used in any county at any such other election, and of printing the lists of nominations therefor, if a town meeting, city or village election be held in such county at the same time therewith, shall be apportioned by the county clerk between such town, city or village, and such county, in the proportion of the number of candidates for town, city or village officers on such ballots, respectively, to the whole number of candidates thereon, and the amount of such expense so apportioned to each such municipality shall be a charge thereon. For the purposes of this section, the county of Kings includes only that portion of the county outside the city of Brooklyn. All expenses lawfully incurred by the board of elections of the city of Brooklyn shall be a charge on such city.

The county clerk of each county, not salaried, shall be paid by such county a reasonable compensation for his services in carrying out the provisions of this chapter, to be fixed by the board of supervisors of the county.

The town clerk of each town shall be paid by such town, a reasonable compensation for his services in carrying out the provision of this chapter, to be fixed by the other members of the town board of the town.

Ballot clerks and persons acting as such, and clerks of boards of registry in cities, except New York and Brooklyn, shall receive the same compensation for their attendance at an election, or meeting for registry in pursuance of law, as inspectors of election, and be paid in like manner. An inspector of election lawfully required to file any papers in a county clerk's office shall, unless he reside in a city or town in which such office is situated, be entitled to receive

as compensation therefor, four cents a mile for every mile actually and necessarily traveled between his residence and such clerk's office, in going to and returning from such office, and five dollars.

§ 18. **Election districts in towns including cities.**—If a town shall include a city, or portion of a city, only such election districts as are wholly outside of the city shall be deemed election districts of the town, except for the purposes of town meetings.

§ 19. **Transmission of election laws to clerks and election officers.**—The secretary of state shall, at least sixty days before the first general election held after this chapter takes effect, transmit to the county clerk of each county a sufficient number of copies of this chapter, as amended at the time of the preparation thereof, to furnish one such copy to the county clerk, and one to each town, village and city clerk and to each inspector of election in such county. He shall annually, within sixty days before each general election thereafter, transmit a like number of copies of the statutes amending or repealing any portion of this chapter, and of such other statutes relating to elections passed during each next preceding year, or such new compilations made by him of the statutes relating to elections, as he shall deem advisable, to the county clerk of each county.

The county clerk of each county shall forthwith transmit one of each such copies to each such officer in such county. Each copy so received by each such officer shall belong to the office of the person receiving it. Every incumbent of the office shall preserve such copy during his term of office, and upon the expiration of his term, deliver it to his successor.

## ARTICLE II.

### QUALIFICATION AND REGISTRY OF VOTERS.

#### SECTION 30. Disqualification of voters.

31. Meetings of inspectors for registry.
32. The register of voters.
33. Certificates to lists ; copies ; custody thereof.
34. Delivery of previous poll-lists and registers to inspectors.
35. Challenges to applicants for registry.
36. Registry of challenges.
37. Addition and cancellation of names on register list.
38. Registry as a condition of voting.
39. Clerks.
40. Delivery of blank registry books to election officers.
41. Meetings for registry on Saturday half-holidays.

§ 30. **Disqualification of voters.**—No person convicted of bribery, or of an infamous crime punishable by imprisonment in a state

prison, shall vote at an election or town meeting, unless sentenced upon such conviction to a reformatory, or unless he shall have been pardoned before or after the expiration of his term of imprisonment, and restored by the pardon to all the rights of a citizen.

**§ 31. Meetings of inspectors for registry.**—The inspectors of election for each election district in a city, except New York and Brooklyn, shall hold four meetings for the registry of the voters thereof, at the place designated therefor, before each general election and before each annual election for city officers, on the fifth, fourth, third and second Saturdays before the election, to be known respectively, as the first, second, third and fourth meetings for registry.

The inspectors of election for each election district, elsewhere than in a city, shall hold two meetings for the registry of the voters thereof, at the place designated therefor, before each general election, on the third and second Saturdays before election, to be known respectively, as the first and second meetings for registry. Each meeting shall begin at nine o'clock in the forenoon, and continue until nine o'clock in the evening, with not more than two intermissions of one hour each.

**§ 32. The register of voters.**—The inspectors of each election district shall prepare at such meetings a list of the names and residences of persons qualified to vote in such district at such election, which, when finally completed, shall be the register of the voters of the district for such election. Such lists shall be arranged in three columns. In the first column shall be placed the surnames of such persons in the alphabetical order of the first letter thereof; in the second column the Christian names of such persons respectively; in the third column the residences of such persons respectively, by street and number, if any, and otherwise a brief description of the locality thereof. At each meeting except the last, a space shall be left after each set of surnames commencing with the same letter, sufficient for the addition thereto at subsequent meetings, of surnames commencing with the same letter. Before any such surnames added at any such subsequent meeting, there shall be written, "Added at second meeting," or, "Added at third meeting," or, "Added at fourth meeting," as the case may be. In cities the names of such persons only, as personally appear before the inspectors and are qualified voters, shall be placed on such list at a meeting for registry for a general election, or an annual city election of city officers.

At the first meeting in a city for registry for a special election, the inspectors shall place upon such list the names of all persons

qualified to vote at such election in such district which appear upon the register of voters for the last preceding general election in such election district, except the names of such voters as are proven to the satisfaction of the inspectors to have ceased to be voters of such district since their names were placed on such register ; and shall at the first and second meetings for such special election, place upon such list the names of all persons so qualified, who shall personally appear before the board at either such meeting ; but no new names, not on such register shall be placed on such list, except of persons who so personally appear.

The inspectors shall, at their first meeting for registry in an election district elsewhere than in a city, place upon such list the names of all persons appearing on the poll-list of the next preceding general election in such district, except the names of such voters as are proven to the satisfaction of such inspectors to have ceased to be voters since such general election ; the names of all other persons known or proven to the satisfaction of the inspectors to be so qualified ; and the names of all persons so qualified who personally appear before the inspectors and request to have their names placed thereon. At their second and final meeting for registry, the names of such persons only as personally appear and are qualified shall be placed on the list.

Elsewhere than in cities the register of voters for a special election shall be the register of voters of the then last preceding general election in the district.

A person is a qualified voter in any election district for the purpose of having his name placed on such list, if he is at the time qualified to vote at the election for which such registry is made, or may become so qualified on or before the day upon which such election is to be held.

§ 33. **Certificates to lists ; copies ; custody thereof.**—At the close of each meeting for the registry of voters in a city, except New York and Brooklyn, for a general election, or for an annual city election for city officers, the inspectors shall append to the list of voters their certificate to the effect that such list as it then is, is a true and correct list of all persons qualified to vote at such election in such district, who have personally appeared before the board and have requested to have their names placed thereon.

At the close of each meeting for the registry of voters elsewhere than in a city for a general election, or in a city for a special election, the inspectors shall append to such list, as it then is, a certifi-

cate to the effect that such list as it then is, is a true and correct list of all persons qualified to vote at the next election in such district whose names the board is required by law to place thereon.

Each such list so certified, shall remain in the custody of the chairman of the inspectors, until the close of the polls on election day. At each meeting of the inspectors for registry, or during the next following secular day, the inspectors shall make three certified copies of such list and certificate, one of which shall forthwith be conspicuously posted in the place where such meeting shall have been held, and one shall be retained by each of the other two inspectors, until the close of the polls of such next election. Such list and registry of voters, and the certified copies thereof, shall at all reasonable hours be accessible to the public for examination or for making copies thereof.

§ 34. **Delivery of previous poll-lists and registers to inspectors.**—Each clerk with whom the poll-list of the last preceding general election in any election district elsewhere than in a city, shall have been filed, shall cause one of such poll-lists to be delivered to the board of inspectors of such district at the opening of its first meeting for registry for any election; and any such clerk within a city, except New York and Brooklyn, shall cause the register of voters on file in his office to be delivered to the board of inspectors of each election district in such city at the opening of its first meeting for registry for a special election.

If a new election district shall have been formed in a town since such general election, the clerk of such town shall, before the first meeting for registry thereafter in such new election district, make a certified copy of each poll-list for such general election of each election district out of which such new district shall have been formed, and shall cause such certified copies to be delivered to the board of inspectors of such new election district at the opening of such meeting for registry. Such board at such meeting shall place upon the list of voters all persons whose names are upon such copies who are qualified to vote in such election district at the election for which such meeting is held.

If a new election district shall have been formed in a city, except New York or Brooklyn, since such general election, the clerk with whom the registers of voters for such previous general election shall have been filed, shall, before the first meeting of the inspectors of such new district for registry for a special election, make a certified copy of each register of voters for such previous general election of

each election district out of which such new election district is formed, and the inspectors of such new election district shall at such first meeting for registry for such special election place upon the list of voters the names of all persons upon such copies who are qualified to vote in such election district at the special election for which such meeting is held.

§ 35. **Challenges to applicants for registry.**—Any person who appears personally at any meeting of the board of inspectors for registry for any election and applies to have his name placed on the list of voters, may be challenged by any qualified elector of such district. If such applicant be so challenged, or if any member of the board shall have reason to suspect that such applicant is not entitled to registry, the board shall administer to such applicant the oath which is required by law to be administered to a challenged person offering to vote at a general election, and may thereupon examine him as to his qualifications as an elector, and may require him to state, under oath, his age, residence by street and number, if it have a street number, and otherwise to describe the locality thereof, and if he is not a householder, to state the name of the householder with whom he resides, and in like manner to describe the residence of such householder. If the applicant shall make such statement, and shall make oath to the circumstances which qualify him to vote at such election in such district, his name shall be added to such list of voters. If he shall refuse to make either such oath or statement, his name shall not be placed on such list.

§ 36. **Registry of challenges.**—If, at a meeting of a board of inspectors for registry, any elector of the district shall, upon oath, declare that he has reason to believe that any person on such list of voters will not be qualified to vote at such election, the board of inspectors shall place the words, “to be challenged,” opposite the name of such person, and when such person shall offer his vote at such election, the general oath as to qualifications shall be administered to him, and if he shall refuse to take such oath, he shall not be permitted to vote.

§ 37. **Addition and cancellation of names on registry lists.**—The board shall, at any such meeting, erase from such list of voters the name of any person thereon who is proven to the satisfaction of the board to be not qualified to vote in such district at such election, or who cannot be so qualified at the time of such election. If the board shall, at any meeting, upon sufficient evidence being presented to it, refuse to strike from such list of voters the name of



any person not so qualified to vote, or shall neglect or refuse to place upon such list the name of any person who is entitled to have his name placed thereon, application may be made to any justice of the supreme court of the judicial district in which such election district is, or to any justice of the supreme court residing in a county adjoining such judicial district, or to a county judge of the county, or to any judge of a court of record of a city in which such election district is, and such justice or judge may, upon sufficient evidence, and upon such notice, of not less than twenty-four hours, to the board of inspectors and such other persons interested, of such application, as the justice or judge may require, order such name to be stricken from or added to such list or register of voters, as the case may be, and such list shall be corrected accordingly.

**§ 38. Registry as condition of voting.**—At the opening of the polls in each election district for every general election, special election, or election of city officers, the board of inspectors of election thereof shall then and there have the original register of voters of such district for such election, and the two certified copies thereof retained by the members of the board of inspectors, and no person shall vote at such election in such district, unless his name is on such register. The right of any person to vote whose name is on such register shall be subject to challenge the same as though he was not required to be registered. Elsewhere than in cities, a person who shall have become a qualified voter of the district since the last preceding general election, may vote at a special election upon making proof to the inspectors that he has become a qualified voter of the district since such general election.

**§ 39. Clerks.**—Any board of inspectors in a city, except New York and Brooklyn, may appoint one clerk to assist in the performance of the clerical duties of such board in registering, for not more than four days. Such clerk shall take the constitutional oath of office before he enters upon the performance of his duties.

**§ 40. Delivery of blank registry books to election officers.**—The secretary of state shall cause to be prepared a sufficient number of suitable blank books for lists and registers of voters, with blank certificates and brief instructions for registry therein, for use by the inspectors in preparing lists and registers of voters in pursuance of this article, and shall transmit to the county clerk of each county a sufficient number of such blank-books, certificates and instructions, to furnish four to each board of inspectors in such county, except in the cities of New York and Brooklyn, and each county clerk



shall cause the same to be distributed accordingly, within ten days after the receipt thereof.

§ 41. Meetings for registry on Saturday half-holidays.—No Saturday shall be deemed a holiday, nor shall any Saturday afternoon be deemed a half-holiday so as to affect any meeting or proceeding of the board of inspectors for registry.

### ARTICLE III.

#### PRIMARIES, CONVENTIONS AND NOMINATIONS.

SECTION 50. Definitions of primary and convention.

51. Notice of primary.
52. Organization and conduct of primaries.
53. Qualifications of voters at primaries.
54. Duties of chairmen of primaries.
55. Watchers and canvass of votes at primaries.
56. Party nominations.
57. Independent nominations.
58. Places of filing certificates of nominations.
59. Times of filing certificates of nominations.
60. Certification of nominations by secretary of state.
61. Publication of nominations.
62. Posting town and village nominations.
63. Lists for town clerks and aldermen.
64. Declination of a nomination.
65. Objections to nomination certificates, and determinations thereof.
66. Filling vacancies in nominations.

§ 50. Definitions of primary and convention.—As used in this article, a convention is an assemblage of delegates representing a political party, duly convened for the purpose of nominating candidates for office, electing delegates to conventions, electing officers for party organizations, or for the transaction of any other business relating to the affairs or conduct of the party; and a primary is any other assemblage of voters of a political party, duly convened for any such purpose.

§ 51. Notice of primary.—No primary shall be held in a city or village having a population of over five thousand, as shown by the then last state or federal enumeration, unless at least two days notice thereof shall be published in a daily newspaper in such city or village, of the same politics with the party giving the notice, at least twice; but if no such newspaper is published in the same city or village where such primary is to be held, such notice shall be posted in at least six public places in such city or village at least two days next preceding such primary, and published in a weekly newspaper if

any, in such city or village of the same politics of the party giving the notice, before such primary is held. Such primary shall be opened at such hour between nine o'clock in the forenoon and nine o'clock in the afternoon, as may be prescribed by the party organization or association holding the same.

Elsewhere than in such a city or village, every primary shall be called and held pursuant to notice given according to the regulations and usages of the party organization holding it.

**§ 52. Organization and conduct of primaries.**—Every primary shall be organized by the appointment of a chairman and secretary.

If the rules and regulations of the political organization calling it so require; or if it shall by a vote of the voters present so resolve; or if it be in a city or village having a population of over five thousand according to the then last preceding federal or state enumeration and five qualified voters of the district where it is held belonging to the political party calling it, shall serve upon the secretary or general committee of the party or its organization in such city or village, or upon the chairman of the district committee, a written demand stating that they so require it; the following additional requirements, or such of them as may be specified in such demand, shall be complied with:

1. The chairman and other officers shall take the constitutional oath of office.

2. Candidates, delegates and officers of the organization shall be chosen by ballot

3. The meeting shall be held open not less than one hour for voting thereat.

4. Two tellers shall be appointed, who shall keep a poll-list of the name and residence of each person voting, and assist the secretary in the canvass of the votes.

5. An elector shall be appointed watcher for each candidate or number of candidates, requesting and naming the same.

6. The chairman shall publicly announce the number of votes cast for each candidate, and the result of the canvass at the completion thereof, and shall, if the primary be held in a city or village having a population of more than five thousand as shown by the then last preceding federal or state enumeration, file a statement of such result and the oath taken at such primary and the poll-list kept thereat in the office of the county clerk if located in such city or village and otherwise in the office of the city or village clerk; and the papers so filed shall be public records, and open to inspection and examination by any elector of the state.

§ 53. **Qualifications of voters at primaries.**—No person shall be entitled to vote at any primary unless he may be qualified to vote for the officers to be nominated thereat, on the day of election. They shall possess such other qualifications as shall be authorized by the regulations and usages of the party holding the primary.

§ 54. **Duties of chairman of primary.**—The chairman may administer any oath required to be administered at any primary. He shall decide all questions that arise relating to the qualification of voters; and shall reject all votes offered when challenged by an elector, unless the person offering the vote shall be sworn that he will truly answer all questions put to him touching his qualifications as such voter, and shall state under oath that he is qualified to vote at such primary.

§ 55. **Watchers and canvass of votes at primaries.**—The ballot-boxes used at any primary shall be examined by the secretary and by the tellers, if any, in the presence of the watchers, if any, before any ballots are received to see that there are no ballots therein. Such watchers are entitled to be present from the commencement of the primary to the close of the canvass, and signing of the certificates thereof. At the close of the canvass of the ballots cast for each candidate, the secretary shall publicly announce the vote and the result of the canvass.

56. **Party nominations.**—Nominations of candidates for public office, made by a primary or convention held therefor or by a duly authorized committee appointed by such primary or convention, shall be known as party nominations.

A certificate of such nominations shall be made, containing the name of the office for which each person is nominated, the name and residence of each such person, if in a city, the street, number of residence, and place of business, if any; and shall designate in not more than five words the party which such primary, convention or committee represents, and shall be signed by the chairman and secretary of the primary, convention or committee, who shall add to their names their respective places of residence, and their affidavit that they were such officers.

§ 57. **Independent nominations.**—Three thousand or more voters of the state may nominate candidates for offices to be filled by voters of the entire state; five hundred or more voters of a county or city or of a portion of the state greater than a county, except an assembly district composed of more than one county, may nominate candidates for offices to be filled by the voters of such county, city

or portion of the state; two hundred and fifty or more voters of an assembly or school commissioner district, may nominate candidates for offices to be filled by the voters of such district; twenty-five or more voters of a ward, town or village may nominate candidates for offices to be filled by the voters of such town, ward or village.

If the nomination is for an office to be filled by the voters of the city and county of New York, the county of Kings, or the city of Brooklyn, not less than six hundred voters shall make such nomination. If the nomination is for an office to be filled wholly or in part by the voters of only a portion of either the city and county of New York, the county of Kings, or the city of Brooklyn, not less than two hundred and fifty voters shall make such nomination.

The nominations shall be made by a certificate signed and acknowledged by such voters, each of whom shall add to his signature his place of residence, and make oath that he is such voter and has truly stated his residence. The certificate shall contain the names of the offices to be filled, the name and residence of each candidate nominated, and if in a city, the street number of such residence and of his place of business if any; and shall designate, in not more than five words, the political or other name which the signers shall select, but the name of any organized political party shall not be used without using in connection therewith some other word or words to distinguish such name from such party name, and no word or designation shall be used indicating that the name is that of any regular party or political organization.

The certificate may designate upon the face thereof one or more persons, as authorized to nominate candidates for the offices named therein, for which no candidates are nominated in such certificate. The persons so designated may by certificates signed and duly acknowledged by them, specifying the political or other name used in the certificate in which such vacancies exist, nominate candidates to fill such vacancies. The signatures to the certificate of nomination need not all be appended to one paper. No person shall sign more than one certificate, and no certificate shall contain the names of more candidates for any office than there are persons to be elected to such office. Such nominations shall be known as independent nominations.

**§ 58. Place\* of filing certificates of nominations.**—Certificates of nomination of candidates for offices to be filled by the voters of the entire state, or of any division or district greater than a county,

\* So in the original.

shall be filed with the secretary of state, except that each certificate of nomination of a candidate for member of assembly for the assembly district composing the counties of Fulton and Hamilton, shall be filed in the office of the county clerk of Fulton county, and a copy thereof certified by the county clerk of Fulton county shall be filed in the office of the county clerk of Hamilton county, and each certificate of nomination of a candidate for senator for the fifth senatorial district shall be filed in the office of the board of police commissioners of the city of New York, and a copy thereof, certified by such board, shall be filed in the office of the county clerk of Richmond county.

Certificates of nomination of candidates for offices to be filled by only the voters or a portion of the voters of the city of New York or Brooklyn, shall be filed with the board of police commissioners of the city of New York or the board of elections of the city of Brooklyn, respectively.

Certificates of nomination of candidates for officers of any other city, or for officers of a village or town, to be elected at a different time from a general election, shall be filed with the clerk of such city, village or town respectively.

All other certificates of nomination shall be filed with the clerk of the county in which the candidates so nominated are to be voted for.

§ 59. The times of filing certificates of nomination.—The different certificates of nominations shall be filed within the following periods before the election for which the nominations are made, to wit: those required to be filed with the secretary of state, if party nominations, at least twenty-five and not more than forty days; if independent nominations, at least twenty and not more than forty days; those required to be filed with a county clerk or the board of police commissioners of the city of New York, or the board of elections of the city of Brooklyn, if party nominations, at least twenty and not more than thirty days; if independent nominations, at least fifteen and not more than thirty days; those required to be filed with the city clerk of any other city, if party nominations, at least ten and not more than twenty days; if independent nominations, at least eight and not more than twenty days; those required to be filed with a town or village clerk, if party nominations, at least six and not more than twenty days; if independent nominations, at least five and not more than twenty days.

§ 60. Certification of nominations by the secretary of state.—The secretary of state shall, immediately upon the expira-

tion of the time within which certificates of nomination may be filed with him, certify to the county clerk of each county, except New York, to the board of police commissioners of the city of New York and to the board of elections of the city of Brooklyn, the name, residence and place of business, if any, of each candidate nominated in any certificate so filed, for whom the voters of such county or city, respectively may vote.

§ 61. **Publication of nominations.**—At least six days before an election to fill any public office, the county clerk of each county, except New York, the board of police commissioners of the city of New York, and the board of elections of the city of Brooklyn, shall cause to be published in not less than two nor more than four newspapers within such county or city respectively, a list of all nominations of candidates for offices to be filled at such election, certified to such clerk or board by the secretary of state, or filed in the office of such clerk or board. Such publication shall contain the name and residence, and if in a city, the street number of the residence, and place of business, if any, and the party or other designation of each candidate.

The city clerk of each city, except New York and Brooklyn, shall at least six days before an election of city officers thereof, held at a different time from a general election, cause like publication to be made as to candidates for offices to be filled at such city election, in at least two newspapers published in such city. One of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election cast the largest number of votes in the state; and another of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election cast the next largest number of votes in the state. The clerk or board, in selecting the respective papers for such publication, shall select those which, according to the best information he can obtain, have the largest circulation within such county or city. In making additional publications the clerk or board shall keep in view the object of giving information, so far as possible, to the voters of all political parties; and in no event shall additional publications be made in two newspapers representing the same political party.

The clerk or board shall make such publication twice in each newspaper so selected in a county or city in which daily newspapers are published; but if there be no daily newspaper published within the county, one publication only shall be made in each of such



newspapers. Should the county clerk find it impracticable to make the publication six days before election day, in counties where no daily newspaper is printed, he shall make the same at the earliest possible day thereafter, and before the election.

§ 62. **Posting town and village nominations.**—Each town and village clerk shall cause at least ten copies of a like list of all nominations to office filed with him to be conspicuously posted in ten public places in the town or village, at least one day before the town meeting or village election, one of which copies shall be so posted at each polling place of such town meeting or village election.

§ 63. **Lists for town clerks and aldermen.**—The county clerk of each county, except New York, shall, at least six days before election day, send to the town clerk of each town, and to an alderman of each ward in any city in the county, except Brooklyn, at least five and not more than ten printed lists for each election district in such town or ward, containing the name and residence, and if in a city, the street number of residence, and place of business, if any, and party or other designation of each candidate nominated to be voted for by the voters of the respective towns and wards. Such lists shall, at least three days before the day of election, be conspicuously posted by such town clerk or alderman in one or more public places in each election district of each town or ward, one of which shall be at each polling place.

§ 64. **Declination of nomination.**—The name of a person nominated for a town or village office, shall not be printed on the official ballots, if he shall before the ballots are printed, give written notice that he declines such nomination to the town or village clerk. The name of a person nominated for any other office shall not be printed on the official ballots if he notifies the officer with whom the original certificate of his nomination is filed, in a writing signed by him and duly acknowledged, that he declines the nomination. If a party nomination, such notification shall be given at least twelve days, and if an independent nomination at least ten days before the election. The officer to whom such notification is given shall forthwith inform, by mail or otherwise, one or more persons whose names are attached to the original certificates of nomination, that such nomination has been declined.

§ 65. **Objections to nomination certificates and determination thereof.**—A certificate of nomination which is in apparent conformity with the provisions of this article shall be valid, unless written objection thereto shall be filed in the office in which the certificate is filed within three days after the filing of the certificate.



It such objection be filed, notice thereof shall be forthwith mailed to all candidates who may be affected thereby, addressed to them at their respective places of residence, as given in the certificate.

The officer with whom the certificate is filed, shall, in the first instance, pass upon the validity of such objection, and his decision shall be final, unless an order shall be made in the matter by a court of competent jurisdiction, or by a justice of the supreme court at chambers, on or before the Wednesday preceding the election. Such order may be made summarily upon application of any party interested, and upon such notice of not less than twenty-four hours, as the court or judge may require.

**§ 66. Filling vacancies in nominations.**—If a nomination is duly declined or a nominee dies before election day, or if any certificate of nomination is insufficient or inoperative, any vacancy thus occasioned, may be filled in the manner required for original nominations, or, if it be an independent nomination, in the manner required for filling vacancies in the original certificate. If it be a party nomination and the primary or convention making it has delegated to a committee the power to fill vacancies, such committee may fill the same. The chairman and secretary of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the new nominee, the office for which he is nominated, the name of the original nominee, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination. The certificate so made shall be executed and sworn to in the manner prescribed for the original certificate of nomination, and shall be filed in the office in which the original certificate is filed, at least two days before the election, if filed in the office of a town or village clerk, and at least eight days before the election if filed elsewhere, and upon being so filed shall have the same force and effect as an original certificate of nomination. When such certificate shall be filed with the secretary of state he shall, in certifying the nomination to the various county clerks, and city boards, insert the name of the person who has thus been nominated to fill a vacancy in place of that of the original nominee; or if he has already sent forward his certificate, he shall forthwith certify to the proper clerks and boards the name and description of the person so nominated to fill a vacancy, the office he is nominated for, together with the other details mentioned in the certificate of nomination so filed with the secretary of state, and the name of the person for whom such nominee is substituted.

## ARTICLE IV.

## PREPARATION OF OFFICIAL BALLOTS, SAMPLE BALLOTS AND INSTRUCTION CARDS ; DISTRIBUTION THEREOF TO POLLING PLACES.

SECTION 80. Elections for which official ballots shall be provided.

81. Form of official ballots for candidates for office.

82. Names of offices and candidates on official ballots.

83. Form of official ballots for constitutional amendments or other proposition.

84. Sample ballots and instruction cards.

85. Number of official ballots for each polling place.

86. Designation of officers to provide ballots and instruction cards.

87. Distribution of ballots and instruction cards to polling places.

88. Correction of errors and omissions in ballots.

89. Official distribution to polling places of substitutes for missing official ballots.

§ 80. Elections for which official ballots shall be provided.—Official ballots shall be provided at public expense at each polling place for every election at which public officers are to be elected directly by the people, except an election of school district officers or school officers of a city or village at which no other public officer is to be elected.

§ 81. Form of official ballots for candidates for office.—Each official ballot for candidates for public office shall be six inches wide ; shall have a perforated line running across it, parallel with and one inch distant from the top thereof ; and shall be of such length that below such perforated line there shall be one-fourth of an inch in the length of the ballot for the name of each office and the same space for the name of each candidate to be printed thereon. The space above the perforated line shall be known as the stub.

The stubs of such ballots of each kind, for each election district, shall be numbered consecutively, by printed numbers on the backs thereof, and nothing else shall be printed on the backs of the stubs. On the face of each stub shall be printed in uniform type the words "official ballots for," and after the word "for" shall follow the designation of the polling place for which the ballot is prepared.

On the back of each official ballot below the stub shall be printed in great primer Roman condensed capitals, the indorsement "official ballot for \_\_\_\_\_," and after the word "for" shall follow the date of the election and a fac-simile of the signature of the officer, or clerk of the board providing the ballots, except that ballots containing the names of candidates for commissioners of excise of towns, shall be

indorsed "excise," only, and other ballots for town meetings, not held at the same time with a general election, shall be indorsed "town" only.

Each official ballot shall be of such form, and so printed, that when the ballot is properly folded for voting, the whole of the indorsement and the printed number on the back of the stub shall be visible, and so that the stub can be removed without unfolding the ballot, or exposing or removing any portion of the face thereof below the perforated line. All official ballots prepared by the same officer or board for the same election district and the same election, containing the names of the same offices, shall be of precisely the same quality and tint of paper, kind of type and quality and tint of plain black ink, and of uniform length.

**§ 82. Names of offices and candidates on official ballots.—**There shall be as many different kinds of official ballots for candidates for public office at each polling place, at which official ballots are required to be provided as there are different political parties or political or other names represented upon duly filed certificates of nomination of candidates to be voted for thereat. The names of all the offices to be filled thereat shall be printed below the perforated line, upon the face of each such ballot of each kind, in brier lower case type within the spaces respectively allowed therefor. Under the name of each office thereon, the name of each candidate nominated therefor by or by virtue of the kind of certificates to which such kind of ballot corresponds, shall be printed in brier capitals, within the spaces respectively allowed therefor. The names on each ballot shall be in a single column except that the names of candidates for presidential electors, and the names of inspectors of election, if ten or more, shall be in two columns. No ballot shall contain the names of more candidates for one office than may be voted for at such election by one voter.

If the full number of candidates for the offices specified on any one kind of ballots shall not have been nominated by or in pursuance of the certificates from which such kind of ballots is prepared, blank spaces shall be left on each ballot of such kind where the names of candidates would appear, except for such failure to nominate. The name of a person having a party nomination shall not be placed upon an official ballot of independent nomination, if such person shall have given notice at least fifteen days before the election for which the ballot is prepared, to the officer with whom his party certificate of nomination is filed, by a writing signed and acknowledged by him,

that he does not wish his name placed upon any ballot of independent nomination, or upon such particular ballot of independent nomination.

The names of offices to be filled and of candidates to be voted for by the voters of a particular district or municipality only, shall not be printed on any other ballots than those prepared for such district or municipality.

If two or more officers are to be elected to the same office for different terms, the term for which each is nominated shall be designated on the ballot as a part of the name of the office.

If at a general election, in any congressional district, one congressman is to be elected for a full term, and another to fill a vacancy, the ballots containing the names of the two candidates therefor shall designate the congress for which each is nominated.

**§ 83. Form of official ballot for constitutional amendments or other propositions.**—Each official ballot upon a proposed constitutional amendment, or other proposition or question, shall comply with the requirements for official ballots for candidates for public office, except that there shall be plainly and clearly printed on the face thereof, below the perforated line, upon each of one kind of such official ballots the proper language for designating a vote for, and upon each of the other kind of such ballots the proper language for designating a vote against such amendment, proposition or question. Each such ballot shall be of the same length, and the only indorsement on the back shall appropriately indicate the proposed amendment or other proposition or question to which the ballot relates, but without any indication on the back of the ballot of whether it is for or against the amendment, proposition or question.

**§ 84. Sample ballots and instruction cards.**—Twelve sample ballots of each kind, shall also be provided for every polling place for which official ballots are required to be provided. Such sample ballots shall be printed on paper of a different color from the official ballots and without numbers on the stubs, but shall not otherwise differ from the official ballots.

Twelve instruction cards printed in English, and twelve printed in each of some other languages as the officer or officers charged with providing them shall deem necessary, shall be provided for each such polling place, containing, in clear, large type, full instructions for the guidance of voters in obtaining ballots for voting, in preparing their ballots for deposit in the boxes, in returning their ballots to the ballot clerks, and in obtaining new ballots in place of those returned, and a copy of each of the sections of the Penal Code relating to crimes against the elective franchise.

**§ 85. Number of official ballots for each polling place.**—The number of official ballots of each kind to be provided for each polling place for each election to be held thereat, except a town meeting or a village election held at a different time from a general election, shall be twice the number of the names of voters upon the register of voters of such district for such election at the close of the last meeting for such registry. The number of official ballots of each kind to be provided for each polling place of a town meeting or village election held at a different time from the general election, shall be at least twice the number of persons who will be entitled to vote thereat, as nearly as can be estimated by the officer charged with the duty of providing such ballots.

**§ 86. Designation of officers to provide ballots and instruction cards.**—The county clerk of each county except New York shall provide the requisite number of printed official ballots, sample ballots and instruction cards for each polling place in the county, for each election to be held thereat, except town meetings and city and village elections, and elections of school officers not held at the same time as a general election, and except that the county clerk of the county of Kings shall provide such ballots for only such election districts of such county as are outside the city of Brooklyn.

The board of police commissioners of the city of New York, and the board of elections of the city of Brooklyn shall provide the requisite number of such ballots and instruction cards for each polling place, in each such city respectively, for each election to be held thereat.

If a city or village election or a town meeting, for the election of public officers, shall be held upon a different day from a general election, the clerk of such city, village or town respectively, shall provide the requisite number of such ballots and cards of instruction for each polling place of such election or town meeting.

Each officer or board charged with providing official ballots for any polling place, shall have the official ballots and sample ballots provided and in the possession of such officer, board or clerk thereof, and open to public inspection as follows: the official ballots four days before the election, and the sample ballots seven days before the election for which they are prepared, unless prepared for a village election or town meeting held at a different time from a general election, in which cases the official ballots shall be so printed and in possession at least one day and the sample ballots at least two days before such election or town meeting.

**§ 87. Distribution of ballots and instruction cards to polling places.**—The county clerk of each county charged with providing official ballots, shall on the Saturday before the election at which they may be voted, deliver to the clerk of each town and to the city clerk of each city in such county the official ballots, sample ballots and instruction cards required to be provided for each polling place in such town or city election. Each kind of official ballots, all the sample ballots and all the instruction cards for each election district shall be so delivered, in separate sealed packages. The official ballots in each package shall be unfolded and arranged in the order of the printed numbers on the stubs thereof. Each such package shall be clearly marked on the outside thereof with the number and kind of ballots or instruction cards inclosed therein respectively, and the designation of the election district for which it is provided.

Receipts for the packages so delivered, specifying the number and kind of packages, shall be given by each town and city clerk receiving them, and filed with such county clerk who shall keep a record of the time and manner of the delivery thereof.

Each town and city clerk receiving such packages shall cause all such packages so received and marked for any election district to be delivered unopened and with the seals thereof unbroken to the inspectors of election of such election district, at the opening of the polls of such election therein, and cause a receipt to be then taken from such inspectors for such packages, specifying the number and kind thereof, which receipt shall be filed in the office of such clerk.

Town, city and village clerks required to provide ballots for town meetings, city and village elections held at different times from a general election, and the boards of the cities of New York and Brooklyn required to provide the ballots for elections held therein, respectively, shall in like manner, deliver to the inspectors or presiding officers of the election at each polling place at which such meetings and elections are held, respectively, the official ballots, sample ballots and instruction cards required to be provided therefor, respectively, in like sealed packages marked on the outside in like manner, and shall take and file receipts therefor in like manner, in their respective offices.

**§ 88. Correction of errors and omissions in ballots.**—Upon affidavit, presented by any voter, that an error or omission has occurred in the publication of the names or description of the candidates nominated for office, or in the printing of the sample or official ballots, the supreme court, or a justice thereof, may make an



order, requiring the county clerk, or other officer or board charged with the duty in respect to which such error or omission occurs, to correct such error, or show cause why such error should not be corrected. The county clerks or such other officers or boards, shall, upon their own motion, correct without delay, any patent error in the ballots which they may discover, or which shall be brought to their attention, and which can be corrected without interfering with the timely distribution of the ballots to the inspectors of election in the election districts.

§ 89. Official distribution to polling places of substitutes for missing official ballots.—If the official ballots required to be furnished to any town or city clerk, shall not be delivered at the time required, or if after delivery shall be lost, destroyed or stolen, the clerk of such town or city shall cause other ballots to be prepared as nearly in the form of the official ballots as practicable, but without the indorsement, and upon the receipt of ballots so prepared from such clerk, accompanied by his statement under oath that the same have been so prepared and furnished by him, and that the official ballots have not been so delivered, or have been so lost, destroyed or stolen, the inspectors of election shall cause the ballots so substituted to be used at the election, in the same manner as near as may be as the official ballots. Such ballots so substituted shall be known as unofficial ballots.

## ARTICLE V.

### THE CONDUCT OF ELECTIONS

#### SECTION 100. Opening the polls.

101. Persons inside the guard rail; general regulations.
102. Watchers; challengers; electioneering.
103. Delivery of ballots to voters.
104. Preparation of ballots for voting.
105. Manner of voting.
106. General duties of ballot clerks.
107. General duties of poll clerks.
108. General duties of inspectors of election in connection with the balloting.
109. When unofficial ballots may be voted.
110. Challenges; preliminary oath and examination.
111. General oath on challenge.
112. Minutes respecting persons challenged.
113. Allowance of time for employees to vote.
114. Canvass of votes by inspectors.
115. Certified statement of canvass.
116. Proclamation of result.



SECTION 117. Delivery and filing by inspectors of papers relating to the election.

118. Judicial investigation of ballots objected to as marked for identification.

§ 100. **Opening the polls.**—The inspectors of election, poll clerks and ballot clerks of each election district, shall meet at the time duly appointed for opening the polls of each election for which official ballots are required to be provided, at the polling place therein, within the space inclosed by the guard-rail, for the purpose of conducting such election.

Within the meaning of this article, the territory in which the voters, entitled to vote at any such polling place reside, shall be deemed an election district; the presiding officers of such election at such polling place shall be deemed inspectors of election of such district, and any inspector or other officer duly designated to distribute official ballots to voters thereof shall be deemed a ballot clerk thereof.

The inspectors of election shall then and there have the ballot-boxes required by law for the reception of ballots to be voted thereat; the box required for the reception of unvoted ballots; the sealed packages of official ballots, sample ballots and instruction cards required to be delivered to them for such election; and if it be an election at which registered voters only can vote, the register of such voters, and the certified copies thereof, required to be made and kept therefor.

Each such poll clerk shall then and there have the book required for keeping the poll list of such election.

The inspectors shall thereupon open the sealed packages of instruction cards, and cause them to be posted conspicuously, at least one, and if printed in different languages, at least one of each language, in each of the voting booths of such polling place, and at least three of each language in which they are printed in or about the polling place; shall open the sealed packages of official ballots and sample ballots and place them in charge of the ballot clerks; and shall before any ballots are cast, unlock the ballot-boxes and the box for the reception of unvoted ballots, see that they are empty, allow the watchers present to examine them, and lock them up again while empty, in such manner that the watchers present and persons just outside the guard-rail can see that such boxes are empty when they are relocked.

The instruction cards, so posted, shall not be taken down, torn or defaced during such election.

The ballot clerks with the official and sample ballots, the inspectors with such boxes and registry lists, and the poll clerks with their poll-list books, shall be stationed as near each other as practicable within such inclosed space.

One of the inspectors shall then make proclamation that the polls of the election are opened, and of the time o'clock in the afternoon when the polls will be closed.

§ 101. **Persons inside the guard-rail;—general regulations.**  
—From the time of such meeting for the purpose of conducting such election, until the announcement of the result of the canvass of the votes cast thereat and the signing of the certificate thereof by the inspectors, such boxes and all the official ballots shall be kept within the guard-rail.

No person shall be admitted within the guard-rail during such period, except such inspectors, poll clerks, ballot clerks, duly authorized watchers, persons admitted by the inspectors to preserve order or enforce the law, persons duly admitted for the purpose of voting, and persons duly admitted to assist disabled voters, and in the city of Brooklyn the members of the board of canvassers, and in the city of New York persons lawfully designated by candidates to be present at the canvass of the votes.

After such boxes are so relocked, while empty at the opening of the polls, they shall not be unlocked or opened until the closing of the polls of such election, and, except as authorized by law, no ballots or other matter shall be placed in them after they are so relocked and before the announcement of the result of such canvass and the signing of such certificate.

No person shall deliver to any voter within such guard-rail a paster, paster ballot or any other ballot than such as the ballot clerks are lawfully authorized to deliver to a voter.

§ 102. **Watchers ; challengers ; electioneering.**—Each political party duly filing certificates of nomination of candidates for offices to be filled at any such election, may, by writing signed by the committee or other similar representative of such organization or by the chairman thereof, and delivered to one of the inspectors of election, appoint not more than two watchers to attend each polling place thereof. No such committee or representative for a town or ward shall appoint watchers for any polling place outside such town or ward. Such watchers may be present at such polling place, and within the guard-rail, from at least fifteen minutes before the unlocking and examination of any ballot-box at the opening of the

polls of such election, until after the announcement of the result of the canvass of the votes cast thereat and the signing of the certificate thereof by the inspectors.

A reasonable number of challengers, at least one person of each such party, shall be permitted to remain just outside the guard-rail of each such polling place, and where they can plainly see what is done within such rail outside the voting booths, from the opening to the close of the polls thereat.

No person shall, while the polls are open at any polling place, do any electioneering within such polling place, or within one hundred and fifty feet therefrom in any public street or room, or in a public manner.

§ 103. **Delivery of ballots to voters.**—While the polls of such election are open, the voters entitled to vote and who have not previously voted thereat, may enter within the guard-rail of the polling place of such election, for the purpose of voting, in such order that there shall not at any time be within such guard-rail more than twice as many voters as there are voting booths thereat, besides the persons lawfully within such guard-rail for other purposes than voting.

Upon entering within the guard-rail, for such purpose, the voter shall forthwith proceed to the ballot clerks and announce his name, and, if in a city, his residence by street and number, or if it have no street number a brief description of the locality thereof, and if required by the inspectors thereat, shall state whether he is over or under twenty-one years of age. If such voter is entitled to vote thereat, and is not challenged, or if challenged and the challenge be deemed in his favor, the ballot clerks thereat shall deliver, unfolded, to such voter, a full set, one of each kind, of the official ballots so provided. The ballot clerks may instruct the voter how to fold his ballot, by folding the sample ballot in his presence, or otherwise than by folding an official ballot. Sample ballots may, in the discretion of the ballot clerks, be taken by voters into the voting booths, and left there during the election.

§ 104. **Preparation of ballots for voting.**—The voter upon receiving such official ballots and instructions shall immediately enter one of the voting booths, if there be one vacant, or if none be vacant, as soon as one shall become vacant. Not more than one person shall occupy one voting booth at the same time, except that a voter who shall declare under oath to the inspectors of election that, by reason of total blindness, loss of both hands, such total inability in both hands that he cannot use either hand for ordinary

purposes, or physical disability by reason of crippled condition or disease to enter the booth alone, he is unable to receive or prepare his ballots without assistance, may select a person for that purpose, who shall be allowed to pass within the guard-rail and receive such ballots and to enter the voting booth with such voter and there assist him in preparing his ballot. The person so selected shall not in any manner request, or seek to persuade or induce such voter to vote any particular ballot or for any particular candidate, and shall not directly or indirectly reveal to any other person the name of any candidate voted for by such voter, or any thing occurring within such voting booth, and he shall not remain within the guard-rail longer than is necessary to assist such disabled voter. No voter shall otherwise ask or receive the assistance of any person within the polling place in the preparation of his ballot, or divulge to any one within the polling place the name of any candidate for whom he intends to vote, or for whom he has voted. No person shall occupy a voting booth more than ten minutes while all the other booths are occupied. •

Within such voting booths and not elsewhere, the name of any person for whom the voter desires to vote for any office named on the official ballot, may be written on the official ballot which the voter proposes to vote; or a paster containing one or more such names or offices may be pasted thereon; or a paster ballot containing the names of all the candidates for whom the voter may vote for all such offices, may be pasted thereon. Every such paster or paster ballot shall be not more than four inches wide, shall be printed on white paper, in plain black ink, and in type uniform with that used on the official ballots. The paper on which such pasters or paster ballots are printed shall not be thicker or heavier than the paper on which the official ballots are printed. All such matter written or pasted on an official ballot shall be written or pasted below the perforated line, on the face of the ballot, being the side and division of the ballot on which the names of offices and candidates are printed, and so that no such pasted matter shall project beyond the sides of the official ballot upon which it is pasted, and so that no part of such paster or paster ballot shall be visible when the ballot is properly folded for voting.

Any name so written or pasted upon a ballot voted, shall be deemed the choice of the voter, notwithstanding the name of another candidate for the same office may be upon the original ballot without being erased, covered, or concealed by the written or pasted

matter. But if the names of two or more candidates for the same office are printed on such ballot and a less number of names of candidates for such office be written or pasted thereon, each such name printed on the official ballot shall, if not erased, covered or concealed, be deemed the choice of the voter.

After the voter has prepared his ballot for voting, and before leaving the booth, he shall fold it and each of the other official ballots in his possession first crosswise by bringing the bottom of each ballot up to the perforated line, and then in the middle lengthwise, in such manner that, when folded, the face of each ballot shall be concealed, and the printed number on the stub and the indorsement on the back of the ballot shall be visible, and so that the stub can be removed without removing any other part of the ballot, and without exposing any part of the face of the ballot below the stub. No voter shall place any other mark upon, or tear or deface any of the ballots so folded by him, and prepared for presentation to the inspectors. If one of the official ballots delivered to a voter shall be spoiled before so prepared, the voter may upon returning to the ballot clerks all the official ballots delivered to him, obtain from them another full set, one of each kind, of the official ballots; but not more than four sets in all, of official ballots shall be delivered to any voter. A voter may, after receiving one set of official ballots and before voting, return all such ballots to the ballot clerks and then pass outside the guard-rail; and afterwards, while the polls are open, enter once again within the guard-rail for the purpose of voting, and receive and prepare his ballots and vote, the same as if he had not once before been within the guard-rail and received his ballots therefor. But not more than two sets in all of official ballots, shall, on such account, be delivered to any voter, and no voter shall pass within the guard-rail more than twice, at the same election, for the purpose of voting.

§ 105. **Manner of voting.**— When the ballot a voter proposes to vote shall be prepared, and it and all the others of the same set delivered to him shall be properly folded, he shall leave the voting booth with the ballots so folded, and keeping all his ballots so folded, shall proceed at once to the inspector in charge of the ballot box, and first hand to such inspector the ballot he intends to vote. Such inspector shall announce the name of the voter and the printed number on the stubs of the official ballots in the voter's possession. If such voter be entitled then and there to vote, and he shall not be challenged, or if challenged and the challenge be determined in his

favor, and if his ballots are properly folded and have no mark or tear visible on the outside thereof, except the printed number on the stubs and the printed indorsement on the back, and if such printed number is the same as that entered on the poll list as the number on the stubs of the set of official ballots last delivered to him by the ballot clerk, such inspector shall receive such ballot which the voter intends to vote, and after removing the stub therefrom, in plain view of the voter and without removing any other part of the ballot, and without unfolding the ballot or in any way exposing any part of the face thereof below the stub, shall deposit it in the proper ballot-box for the reception of voted ballots. The voter shall thereupon, and after the ballot voted by him is deposited in the ballot-box, hand to the inspector in charge of the box for unvoted ballots, all the other official ballots of the same set delivered to him which he does not intend to vote, properly folded, and such inspectors after removing the stubs therefrom, in like manner, shall deposit such ballots which the voter does not intend to vote, still so folded in the box for unvoted ballots. Such voter shall then forthwith pass outside the guard-rail, unless he be one of the persons authorized to remain within the guard-rail for other purposes than voting.

If the voter presents ballots improperly folded to such inspector, he may be further instructed as to the manner of properly folding his ballot, otherwise than by folding or unfolding the official ballots, and may return again, not exceeding four times in all, to the voting booth to properly prepare his ballots. No official ballots however folded shall be unfolded outside the voting booth.

No person to whom any official ballots shall be delivered shall, leave the space within the guard-rail until he shall deliver back all such ballots either to the inspectors, or to the ballot clerks.

§ 106. General duties of ballot clerks.—The ballot clerks shall deliver official ballots to the voters in such order that the numerical order of the numbers printed on the stubs of each set of ballots so delivered, shall be the same as the order of the successive deliveries thereof to the voters, the set of ballots numbered one on the stubs being first delivered and so on.

They shall not deliver to any voter a portion only of one full set of any kind of official ballots provided for such polling place, and all the ballots so delivered together, at one time, to any one voter, shall have the same printed number on their stubs.

They shall, upon the delivery of official ballots to each voter, announce the voter's name, the number printed on the stub of each



ballot so delivered, and, if in a city, the voter's residence by street and number, or if it have no street number a brief description of the locality thereof.

Upon the return of a set of ballots to them by any voter, they shall announce the name of the voter returning them, and the printed number on the stubs of the ballots so returned. They shall cancel and carefully preserve all such ballots returned to them by voters, and shall not again deliver any such returned ballots to a voter.

They shall carefully preserve all detached stubs delivered to them by the inspectors.

They shall immediately upon the closing of the polls of each election, prepare and sign a written statement showing the number of full sets of official ballots delivered by them to voters, the number of such sets returned to them, the number of such sets not delivered by them to the voters, and the number of sets of detached stubs returned to them by the inspectors; and shall inclose all such ballots so returned to them, all such ballots not delivered to voters, and all such detached stubs, in a sealed package, and deliver it, together with such written statement, if in the city of Brooklyn, to the chairman of the board of canvassers, and if elsewhere to the chairman of the board of inspectors.

§ 107. **General duties of poll clerks.**—Each poll clerk at each polling place for which official ballots are required to be provided, shall have a book for keeping the poll list thereof, containing columns headed respectively, numbers on ballots, names of voters, and if in a city, residence of voters. If there shall be more than one ballot-box lawfully required for the reception of votes cast thereat, there shall be an additional column in each poll-list book for each ballot-box, headed with the numbers or other designations, respectively, of such ballot-boxes.

Upon each delivery of a set of official ballots by the ballot clerks to a voter, each poll clerk shall enter upon his poll-list, in the appropriate columns, the printed number upon the stubs of the ballots so delivered, the name of the voter, in the alphabetical order of the first letter of his surname, and if in a city, the residence of the voter by street and number, or if it have no street number, a brief description of the locality thereof. If the set of ballots delivered to any voter shall be returned by him to the ballot clerks, the ballot number thereof, so entered on the poll-list, shall be canceled, by drawing a mark through it, leaving the number still legible, and upon the delivery of each additional set of ballots by the ballot clerks to the same



voter, the poll clerks shall add opposite the name of such voter on the poll-list, in the proper column, the printed number on the stubs of such additional set of ballots.

Each poll clerk shall make a memorandum on the poll list kept by him, of every instance of a voter receiving the assistance of another person in the voting booth, in the preparation of his ballot, stating the name of such voter, the substance briefly of the reasons for requiring such assistance as sworn to by the voter, and the name of the person rendering such assistance.

Each poll clerk shall designate upon his poll-list, every person entered upon his list, who shall have been challenged and taken either of the oaths upon such challenge, by some appropriate mark opposite the name of each such person.

As each voter offers his ballots to the inspectors, each poll clerk shall report to the inspector whether the number entered on the poll list kept by him, as the number on the stubs of the ballots last delivered to such voter, is the same as the number on the stubs of the ballots so offered. As each voter votes, each poll clerk shall check the name of such voter on his poll list, and if there be more than one ballot-box for the reception of votes cast, shall enter a check in each column headed to correspond to each ballot-box into which a ballot of such voter is deposited. Upon the close of the polls of the election, the poll clerks shall deliver such poll lists to the chairman of the board of inspectors thereof.

§ 108. General duties of inspectors in connection with the balloting.—One of the inspectors of election at each polling place, while the polls of an election thereat are open, shall be designated to receive the ballots from the voters voting. If it be an election for which voters are required to be registered, the other inspectors shall, before any ballots are delivered by the ballot clerks to a voter, ascertain whether such voter is duly registered, and so announce to the ballot clerks, who shall not deliver any ballots to such voter until such inspectors announce that such voter is registered. Upon each delivery of ballots to a voter, such inspectors shall enter opposite the name of such voter upon the register and in each of the certified copies thereof, the number printed on the stubs of the ballots of each set so delivered, canceling any previous number so entered, without rendering it illegible. As each person, so registered, votes, they shall check his name upon such register, and upon each of the two certified copies thereof.

The inspectors shall, forthwith upon detaching the stubs from any set of official ballots, deliver such detached stubs to the ballot clerks.

§ 109. **When unofficial ballots may be voted.**— If, for any cause, the official ballots shall not be provided as required by law at any polling place, upon the opening of the polls of an election thereat, or if the supply of official ballots shall be exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as practicable in the form of the official ballots, may be used. Whenever a candidate for any office, whose name is printed on the official ballot, shall, before election day be or become ineligible or withdraw, voters may use unofficial ballots in voting to fill the office for which such deceased, ineligible or withdrawn candidate was nominated, and the name of the deceased, ineligible or withdrawn candidate shall be considered as having been erased from the official ballot; but such unofficial ballot shall contain only the name of the person voted for in lieu of the deceased, ineligible or withdrawn candidate, under the name of the office for which such person is a candidate.

§ 110. **Challenge, preliminary oath and examination.**— A person may be challenged either when he applies to the ballot clerks for official ballots, or when he offers to an inspector the ballot he intends to vote, or previously by notice to that effect to an inspector, by any elector. The name of the person challenging shall not be disclosed by an election officer unless required by a court or a judicial officer. It shall be the duty of each inspector to challenge every person offering to vote, whom he shall know or suspect not to be duly qualified as an elector. If any person offering to vote at any election shall be challenged in relation to his right to vote thereat, one of the inspectors shall tender to him the following preliminary oath: "You do swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence and qualifications as an elector." The inspectors or one of them shall then question the person challenged in relation to his name; his place of residence before he came into that election district; his then place of residence; his citizenship; whether he be a native or naturalized citizen, and if the latter, when, where, and in what court, or before what officer he was naturalized; whether he came into the election district for the purpose of voting at that election; how long he contemplates residing in the election district; and all other matters which may tend to test his qualifications as a resident of the election district, citizenship and right to vote at such election at such polling place. If any person shall refuse to take

such preliminary oath when so tendered, or to answer fully any such question which shall be put to him, his vote shall be rejected. After receiving the answer of the person so challenged, the board of inspectors shall point out to him the qualifications, if any, in respect to which he shall appear to them deficient.

§ 111. **General oath on challenge.**—If the person so offering to vote, shall persist in his claim to vote, and the challenge shall not be withdrawn, one of the inspectors shall then administer to him the following oath: “You do swear (or affirm) that you are twenty-one years of age, that you have been a citizen of the United States for ten days, and an inhabitant of this state for one year next preceding this election, and for the last four months a resident of this county, and for thirty days a resident of this election district, and that you have not voted at this election.”

If the person so offering to vote shall be challenged for causes stated in section two of article two of the constitution of this state the following additional oath shall be administered by one of the inspectors: “You do swear (or affirm) that you have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at this election, and have not made any promise to influence the giving or withholding of any such vote; and that you have not made, or become directly or indirectly interested in any bet or wager depending upon the result of this election.”

If the person so offering shall be challenged on the ground of having been convicted of bribery or any infamous crime, the following additional oath shall be administered to him by one of the inspectors: “You do swear (or affirm) that you have not been convicted of bribery or any infamous crime, or if so convicted, that you have been pardoned and restored to all the rights of a citizen.”

If any person shall refuse to take either oath so tendered, his vote shall be rejected.

§ 112. **Minutes respecting persons challenged.**—The inspectors of election shall keep a minute of their proceedings in respect to the challenging and administering oaths to persons offering to vote, in which shall be entered, by one of them, the name of every person who shall be challenged or take either of such oaths, specifying in each case whether the preliminary oath or the general oath, or both were taken. At the close of the election, at each polling

place, the inspectors thereat shall add to such minutes a certificate to the effect that the same are all such minutes as to all persons challenged at such election.

**§ 113. Allowance of time for employes to vote.**—Any person entitled to vote at a general election held within this state, shall, on the day of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two hours, while the polls of such election are open. If such voter shall notify his employer, before the day of such election, of such intended absence, and if thereupon two consecutive hours for such absence shall be designated by the employer, and such absence shall be during such designated hours, or if the employer, upon the day of such notice, makes no designation, and such absence shall be during any two consecutive hours while such polls are open, no deduction shall be made from the usual salary or wages of such voter, and no other penalty shall be imposed upon him by his employer, by reason of such absence.

**§ 114. Canvass of votes by inspectors.**—As soon as the polls of an election are closed, if in the city of Brooklyn, the board of canvassers and if elsewhere, the inspectors of election thereat, shall publicly canvass and estimate the votes and not adjourn or postpone the canvass until it shall be fully completed.

They shall commence by comparing the two poll-lists with each other, correcting any mistake therein and by counting the ballots found in the ballot-boxes without unfolding them, except so far as to ascertain that each ballot is single, and by comparing the ballots found in each box with the number shown by the poll-lists to have been deposited therein. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall all be replaced without being unfolded in the box from which they were taken and one of the inspectors or canvassers shall, without seeing the same, publicly draw out as many ballots as shall be equal to such excess and without unfolding them deposit them in the box for unvoted ballots.

If two or more ballots shall be found in a ballot-box so folded together as to present the appearance of a single ballot, they shall be destroyed, if the whole number of ballots in such ballot-box exceeds the whole number of ballots shown by the poll-lists to have been deposited therein and not otherwise. If there lawfully be more than one ballot-box for the reception of ballots voted at any one polling place, no ballot, properly indorsed, found in the wrong bal-

lot-box shall be rejected but shall be counted in the same manner as if found in the proper ballot-box, if such ballot shall not together with the ballots found in the proper ballot-box make a total of more ballots than are shown by the poll-lists to have been deposited in the proper box.

No ballot that has not the official indorsement shall be counted except such as are voted in accordance with the provisions of this chapter relating to unofficial ballots.

If requested by any watcher the inspectors or canvassers shall, during the canvass, exhibit any and all ballots cast at such election or town meeting to such watcher fully opened, and in such a condition that he may fully and carefully read and examine the same, but such inspector or canvasser shall not allow any such ballot to be taken from his hands.

When an inspector of election or other election officer or duly authorized watcher shall, during a canvass of the votes, or immediately after the completion thereof, declare his belief that any particular ballot, paster, or paster ballot affixed thereto, has been written upon or marked in any way for the purpose of identification, the inspectors or canvassers shall write on the back of such ballot the words "objected to because marked for identification," or words in substance to that effect, and sign their names thereto, and attach each such ballot to their written statement of the result of the canvass. Each such ballot shall be counted by them the same as if not so objected to.

§ 115. **Certified statement of canvass.**—Upon the completion of the canvass, the inspectors, except in the cities of New York and Brooklyn, shall make and sign a written statement thereof, showing the date of the election, the number of the district, the town or ward and the county in which it was held, the whole number of ballots received for each office, the whole number cast for each person for such office and the whole number of ballots objected to because marked for identification, written out at length in words and at the end thereof a certificate signed by the inspectors to the effect that the statement is in all respects correct.

Such inspectors shall securely attach to such statement one official ballot of each kind voted for all the officers to be chosen at such election. They shall state in words, at full length and written partly on such ballot and partly on the paper to which it shall be attached, the whole number of the ballots which were received, having the same names for the same offices as the one attached.

If two or more ballots cast, varying from every official ballot, shall have thereon the names of the same candidates for the same offices throughout, only one of such ballots shall be annexed to such statement and there shall be written partly upon it and partly upon the paper to which it is attached, a statement of the number of such ballots cast. The ballots so attached with such statements so written shall be deemed a part of the certified statement of the canvass by the inspectors.

All other ballots cast at such election not containing the names of the same candidates for the same offices as appear upon any other ballot so cast, shall be securely attached to such statement.

Unless such election be an election of town, city, village or school officers held at a different time from a general election, such inspectors shall forthwith and before adjourning make two certified copies of such certified statement of the result of the canvass.

Forthwith upon the completion of such certified statements, and of such copies thereof if required, and the proclamation of the result, the ballots voted and not required to be attached to such certified statement or to such copies, and the contents of the box for the reception of unvoted ballots, without examination thereof, shall be destroyed.

§ 116. Proclamation of result.—Upon the completion of such canvass and of the certified statement of the result thereof, the chairman of the inspectors of election shall make public oral proclamation of the whole number of votes cast at such election at such polling-place for all candidates for each office; upon each proposed constitutional amendment or other question or proposition, if any, voted upon at such election; the whole number of votes given for each person, with the name of office for which he was named on the ballot; and the whole number of votes given respectively for and against each proposed constitutional amendment or other question or proposition, if any, so submitted.

§ 117. Delivery and filing by the inspectors of papers relating to the election.—If the election be other than an election of town, city, village or school officers held at a different time from a general election, the inspectors of each election district except in the cities of New York and Brooklyn, shall forthwith upon the completion of such certified statement of the result, deliver such certified statement to the supervisor of the town in which the election district, if outside of a city, is situated and if in a city, to one of the supervisors of such city. If there be no such supervisor or he be



absent or unable to attend the meeting of the county board of canvassers, such certified statement shall be forthwith delivered to an assessor of such town or city. One certified copy of such certified statement of the result of the canvass, the poll-lists of such election and the register and two certified copies thereof checked by such inspectors at such election shall be forthwith filed by such inspectors or by one of them deputed for that purpose, with the town clerk of such town or the city clerk of such city as the case may be. One certified copy of such certified statement of the result of the canvass, the minutes as to challenges certified by such inspectors and the sealed packages of detached stubs and unvoted ballots prepared and delivered to the chairman of the inspectors by the ballot clerks, shall within twenty-four hours after the completion of such canvass, be filed by such inspectors or by one of them deputed for that purpose with the county clerk of the county in which the election district is situated.

If the election be an election of town, city or village officers, held at a different time from a general election, elsewhere than in the cities of New York and Brooklyn, such certified statement of the result of the canvass, the certified minutes as to challenges, the poll-lists of the election, the packages of detached stubs and unvoted ballots, and if it be an election at which any registered voters can vote, the register and two certified copies thereof used and checked at the election shall, forthwith upon the completion of the canvass, be filed by the inspectors with the clerk of the town, village or city as the case may be.

Such packages of detached stubs and ballots not voted, prepared by the ballot clerks, shall be filed by inspectors of election in the city of New York, with the board of police commissioners, and by the board of canvassers, in the city of Brooklyn, with the board of election. Such packages shall be preserved in the offices in which they are so filed for one year from the time of the filing thereof, may be opened and examined upon the order of a court or judge, or by any board of canvassers of the returns of election district canvassers, and at the expiration of such year, may be destroyed.

§ 118. **Judicial investigation of ballots objected to as marked for identification.**—If any such certified statement of the result of a canvass shall show that any of the ballots counted were objected to as marked for identification, a writ of mandamus may, upon the application of any candidate voted for at such election, within thirty days thereafter, issue out of the supreme court, if such statement be



ballot so delivered, and, if in a city, the voter's residence by street and number, or if it have no street number a brief description of the locality thereof.

Upon the return of a set of ballots to them by any voter, they shall announce the name of the voter returning them, and the printed number on the stubs of the ballots so returned. They shall cancel and carefully preserve all such ballots returned to them by voters, and shall not again deliver any such returned ballots to a voter.

They shall carefully preserve all detached stubs delivered to them by the inspectors.

They shall immediately upon the closing of the polls of each election, prepare and sign a written statement showing the number of full sets of official ballots delivered by them to voters, the number of such sets returned to them, the number of such sets not delivered by them to the voters, and the number of sets of detached stubs returned to them by the inspectors; and shall inclose all such ballots so returned to them, all such ballots not delivered to voters, and all such detached stubs, in a sealed package, and deliver it, together with such written statement, if in the city of Brooklyn, to the chairman of the board of canvassers, and if elsewhere to the chairman of the board of inspectors.

§ 107. **General duties of poll clerks.**—Each poll clerk at each polling place for which official ballots are required to be provided, shall have a book for keeping the poll list thereof, containing columns headed respectively, numbers on ballots, names of voters, and if in a city, residence of voters. If there shall be more than one ballot-box lawfully required for the reception of votes cast thereat, there shall be an additional column in each poll-list book for each ballot-box, headed with the numbers or other designations, respectively, of such ballot-boxes.

Upon each delivery of a set of official ballots by the ballot clerks to a voter, each poll clerk shall enter upon his poll-list, in the appropriate columns, the printed number upon the stubs of the ballots so delivered, the name of the voter, in the alphabetical order of the first letter of his surname, and if in a city, the residence of the voter by street and number, or if it have no street number, a brief description of the locality thereof. If the set of ballots delivered to any voter shall be returned by him to the ballot clerks, the ballot number thereof, so entered on the poll-list, shall be canceled, by drawing a mark through it, leaving the number still legible, and upon the delivery of each additional set of ballots by the ballot clerks to the same

voter, the poll clerks shall add opposite the name of such voter on the poll-list, in the proper column, the printed number on the stubs of such additional set of ballots.

Each poll clerk shall make a memorandum on the poll list kept by him, of every instance of a voter receiving the assistance of another person in the voting booth, in the preparation of his ballot, stating the name of such voter, the substance briefly of the reasons for requiring such assistance as sworn to by the voter, and the name of the person rendering such assistance.

Each poll clerk shall designate upon his poll-list, every person entered upon his list, who shall have been challenged and taken either of the oaths upon such challenge, by some appropriate mark opposite the name of each such person.

As each voter offers his ballots to the inspectors, each poll clerk shall report to the inspector whether the number entered on the poll list kept by him, as the number on the stubs of the ballots last delivered to such voter, is the same as the number on the stubs of the ballots so offered. As each voter votes, each poll clerk shall check the name of such voter on his poll list, and if there be more than one ballot-box for the reception of votes cast, shall enter a check in each column headed to correspond to each ballot-box into which a ballot of such voter is deposited. Upon the close of the polls of the election, the poll clerks shall deliver such poll lists to the chairman of the board of inspectors thereof.

§ 108. **General duties of inspectors in connection with the balloting.**—One of the inspectors of election at each polling place, while the polls of an election thereat are open, shall be designated to receive the ballots from the voters voting. If it be an election for which voters are required to be registered, the other inspectors shall, before any ballots are delivered by the ballot clerks to a voter, ascertain whether such voter is duly registered, and so announce to the ballot clerks, who shall not deliver any ballots to such voter until such inspectors announce that such voter is registered. Upon each delivery of ballots to a voter, such inspectors shall enter opposite the name of such voter upon the register and in each of the certified copies thereof, the number printed on the stubs of the ballots of each set so delivered, canceling any previous number so entered, without rendering it illegible. As each person, so registered, votes, they shall check his name upon such register, and upon each of the two certified copies thereof.

the member so deputed shall immediately give notice to such inspectors or canvassers, who shall forthwith meet and make such correction as the facts of the case require; but such inspectors or canvassers shall not change or alter any decision before made by them, but shall only cause their canvass to be correctly stated. The board of county canvassers may adjourn from day to day, not exceeding three days in all, for the purpose of obtaining and receiving such corrected statements.

§ 133. **Mandamus for correction of errors by county boards of canvassers.**—The supreme court may, upon affidavit presented by any voter showing that errors have occurred in any statement or determination made by any county board of canvassers, make an order requiring such board to correct such errors, or show cause why such correction should not be made. If such board fail or neglect to make such correction, or to show cause as aforesaid, the court may compel such board by writ of mandamus to correct such errors; and if it shall have made its determination and dissolved, to reconvene for the purpose of making such corrections. Such meeting of the board of county canvassers shall be deemed a continuation of its regular session for the purpose of making such corrections as the court shall order, and the statement and certificates shall be made and filed as the court shall direct, and shall stand in lieu of the original certificates and statements so far as they shall vary therefrom, and shall in all places be treated with the same effect as if such corrected statement had been a part of the original required by law.

§ 134. **Statements of canvass by county board.**—Upon the completion by a county board of canvassers of their canvass of the votes so cast in such county, they shall make separate statements thereof as follows: One statement as to all the votes, if any, so cast for all the candidates for each office of elector of president and vice-president of the United States for which the electors of such county were entitled to vote at such election; another statement as to all the votes so cast for all the candidates for each state office and for each office of representative in congress for which the electors of such county or any portion thereof are entitled to vote; another statement as to all the votes, if any, cast upon every proposed constitutional amendment or other proposition or question duly submitted to all the electors of the state at such election; another statement as to all the votes cast for all the candidates for each office of member of assembly for which the electors of such county or any portion thereof, were entitled to vote at such election; another state-

ment as to all the votes, if any, so cast for all the candidates for each county office and office of school commissioner for which the electors of such county or any portion thereof, were entitled to vote at such election; another statement as to all the votes, if any, so cast upon any proposition or question upon which only the electors of such county were entitled to vote at such election.

Each such statement shall set forth in words written out at length all the votes so cast for all the candidates for each such office, and if any such office was to be filled at such election by the electors of a portion only of such county, all the votes cast for all the candidates for each office in any such portion of the county designating it by its proper district number or other appropriate designation, the names of each such candidate and the number of votes so cast for each, the whole number of votes so cast upon any proposed constitutional amendment or other proposition or question and of all the votes so cast in favor of and against the same respectively.

If upon such canvass any statement or duly certified copy of statement of the result of the canvass of the votes of any election district in such county, shall have any ballot annexed thereto, indorsed by the inspectors or canvassers to the effect in substance that it was objected to as marked for identification, the county board of canvassers shall count such ballot as though not so marked, unless otherwise ordered by a court of competent jurisdiction, but they shall add to each appropriate statement in which the count of any such ballot or portion thereof is included, a statement of the whole number of ballots so indorsed and counted for all the candidates for each office and the number of such ballots so counted for each candidate.

Each such statement shall be certified as correct over the signatures of the members of the board or a majority of them and shall be filed and recorded in the office of the county clerk of such county.

§ 135. Decisions of county board as to persons elected.— Upon the completion of such statements, each county board of canvassers shall determine what person has been so elected to each office of member of assembly to be filled by the electors of such county, if constituting one assembly district, or in each assembly district therein if there be more than one, and each person elected to each county office of such county to be filled at such election, and if there be more than one school commissioner district in such county, each person elected to the office of school commissioner to be filled at such election in each such district. The county clerk of the county of Hamilton shall forthwith transmit to the county clerk of the county

of Fulton, a certified copy of the statement so filed and recorded in his office, of the county board of canvassers of Hamilton county, as to all the votes so cast in Hamilton county for all the candidates and for each of the candidates for the office of member of assembly of the assembly district composed of Fulton and Hamilton counties; and the county clerk of Fulton county shall forthwith deliver the same to the Fulton county board of canvassers, who shall from such certified copy and from their own statement as to the votes so cast for such office in Fulton county, determine what person was at such election elected to such office.

Such board of each county shall determine whether any proposition or question submitted to the electors of such county only, has been adopted or rejected.

All such determinations shall be reduced to writing and signed by the members of such board, or a majority of them, and filed and recorded in the office of the county clerk of such county, who shall cause a copy thereof and of the statements filed and recorded in his office upon which such determinations were based, to be published in at least one newspaper published in such county, and in such other newspapers published therein as the county board of canvassers shall direct.

The clerk of each county shall prepare as many certified copies of each certificate of the determination of the county board of canvassers of such county as there are persons declared elected in such certificate, and shall, without delay, transmit such copies to the persons therein declared to be elected, respectively.

§ 136. **Transmission of statements of county boards to the secretary of state.** — Upon the filing in the office of a county clerk of a statement of the county board of canvassers as to the votes cast for candidates for the offices of electors of president and vice-president, or as to the votes cast for candidates for state offices and representatives in congress, or as to the votes cast upon any proposed constitutional amendment or other proposition or question submitted to all the electors of the state, such county clerk shall forthwith make three certified copies of each such statement, and within five days after the filing thereof in his office, transmit by mail, one of such copies to the secretary of state, one to the governor, and one to the comptroller. The governor and comptroller shall forthwith upon the receipt thereof by them, deliver such certified copies to the secretary of state. If any such certified copy shall not be received by the secretary of state on or before the

last day of November next after a general election, or within twenty days after a special election, he shall dispatch a special messenger to obtain such certified copy from the county clerk required to transmit the same, and such county clerk shall immediately upon demand of such messenger, at his office, make and deliver such a certified copy to such messenger who shall as soon as practicable deliver it to the secretary of state.

The county clerk of each county shall transmit to the secretary of state, within twenty days after a general election and within ten days after a special election, a list of the name and residence of each person determined by the board of county canvassers of such county to be elected member of assembly, school commissioner, and to any county office; and on or before the fifteenth day of December in each year, a certified copy of the official canvass of the votes cast in such county by election districts at the next preceding general election.

The secretary of state shall obtain from the governor and comptroller such certified copies so transmitted to them, and file the same in his office.

§ 137. **Organization of state board of canvassers.**—The secretary of state, attorney-general, comptroller, state engineer and surveyor, and treasurer shall constitute the state board of canvassers, three of whom shall be a quorum. If three of such officers shall not attend on a day duly appointed for a meeting of the board, the secretary of state shall forthwith notify the mayor and recorder of the city of Albany to attend such meeting, and he\* shall forthwith attend accordingly and shall, with the other such officers attending, constitute such board.

The secretary of state shall appoint a meeting of such board at his office, or at the office of the treasurer or comptroller on or before the fifteenth day of December next after each general election, and within forty days after each special election, to canvass the statements of boards of county canvassers of such election.

He shall notify each member of the board of such meeting. The board may adjourn such meeting from day to day, not exceeding a term of five days.

§ 138. **Canvass by state board.**—Such board shall at such meeting proceed to canvass the certified copies of the statements of the county boards of canvassers of each county in which such election was held. If any member of such board shall dissent from a decision of the board, or shall deem any of the acts or proceedings of the board to be illegal or irregular, and shall protest against the same, he

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\* So in the original.



shall state such dissent or protest in writing, signed by him, setting forth his reasons therefor, and deliver it to the secretary of state who shall file it in his office.

Upon the completion of such canvass, such board shall make separate statements written out in words at length and signed by the members of such board or a majority thereof, of the whole number of votes cast for all the candidates for each office shown by such certified copies to have been voted for, and of the whole number of votes cast for each of such candidates, the name of each office and if the voters of a district only of the state were entitled to vote for candidates therefor, the name and number of such district, and the name of each candidate, and the determination of the board of the person thereby elected to such office; the whole number of votes shown by such certified copies to have been cast upon each proposed constitutional amendment or other proposition or question shown by such copies to have been voted upon, the whole number of votes cast in favor of and against each respectively, and the determination of the board as to whether it was adopted or rejected. Each such statement, dissent and protest shall be delivered to the secretary of state and recorded in his office.

§ 139. **Certificates of election.**—The secretary of state shall thereupon forthwith transmit a copy, certified by his signature and official seal, of each such statement as to votes cast for candidates for any office, to the person shown thereby to have been elected thereto. He shall prepare a general certificate under the seal of this state, and attested by him as secretary thereof, addressed to the house of representatives of the United States, in that congress for which any person shall have been chosen, of a due election of the persons so chosen at each election, as representatives of this state in congress; and shall transmit the same to the house of representatives, at their first meeting. If either of the persons so chosen at such election shall have been elected to supply a vacancy in the office of representative in congress, it shall be mentioned by the secretary of state in the statements to be prepared by him.

§ 140. **Record in office of secretary of state of county officers elected.**—The secretary of state shall enter in a book to be kept in his office, the names of the respective county officers elected in this state, including school commissioners, specifying the counties and districts for which they were severally elected and their places of residence, the offices to which they were respectively elected, and the terms of office.



ARTICLE VII.

ELECTION OF REPRESENTATIVES IN CONGRESS AND ELECTORS OF  
PRESIDENT AND VICE-PRESIDENT.

SECTION 160. Representatives in congress, when and how chosen.

161. Electors of president and vice-president, when and how to be chosen.

162. Meeting and organization of the electoral college.

163. Secretary of state to furnish college with lists of electors.

164. Vote of the electors and their list of persons voted for.

165. Appointment of messenger and his duties.

166. Other lists to be furnished.

167. Compensation of electors.

§ 160. Representatives in congress, when and how chosen.— Representatives in the house of representatives of the congress of the United States shall be chosen in the several congressional districts at the general election held therein in the year 1892 and every second year thereafter. If any such representative shall resign he shall forthwith transmit a notice of his resignation to the secretary of state and if a vacancy shall occur in any such office the clerk of the county in which such representative shall have resided at the time of his election shall, without delay, transmit a notice thereof to the secretary of state.

§ 161. Electors of president and vice-president, when and how chosen.— At the general election in November, preceding the time fixed by the law of the United States for the choice of president and vice-president of the United States, there shall be elected by general ticket as many electors of president and vice-president as this state shall be entitled to, and each elector in this state shall have a right to vote for the whole number, and the several persons to the number required to be chosen having the highest number of votes shall be declared and be duly appointed electors.

§ 162. Meeting and organization of the electoral college.— The electors of president and vice-president shall convene at the capitol on the second Monday in January next following their election, and those of them who shall be assembled at twelve o'clock noon of that day, shall immediately after that hour fill, by ballot, and by plurality of votes, all vacancies in the electoral college, occasioned by death, refusal to serve, or neglect to attend at that hour, of any elector, or occasioned by an equal number of votes having been given for two or more candidates. The electoral college being thus completed, they shall then choose a president, and one or more secretaries from their own body.

§ 163. **Secretary of state to furnish college with lists of electors.**—The secretary of state shall prepare three lists, setting forth the names of such electors, and the canvass under the laws of this state, of the number of votes given for each person for whose election any and all votes were given, together with the certificate of determination thereon, by the state canvassers; procure to the same the signature of the governor; affix thereto the seal of the state, and deliver the same thus signed and sealed to the president of the college of electors, on the second Monday in January.

§ 164. **Vote of the electors and their lists of persons voted for.**—Immediately after the organization of the electoral college the electors shall then and there vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves. They shall name in their ballots the person voted for as president, and in distinct ballots, the person voted for as vice-president.

They shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and after annexing thereto one of the lists received from the secretary of state, they shall seal up the same, certifying thereon, that lists of the votes of this state for president and vice-president are contained therein.

§ 165. **Appointment of messenger and his duties.**—The electors shall then, by writing under their hands, or under the hands of a majority of them, appoint a person to take charge of the lists so sealed up, and to deliver the same to the president of the senate, at the seat of government of the United States, before the third Monday in the said month of January.

In case there shall be no president of the senate at the seat of government, on the arrival of the person intrusted with the lists of the votes of the electors, then such person shall deliver the lists of votes in his custody into the office of the secretary of state of the United States.

§ 166. **Other lists to be furnished.**—The electors shall also forward forthwith, by the post-office in the city of Albany, to the president of the senate of the United States, at the seat of government, and deliver forthwith to the judge of the United States for the northern district of the state of New York, similar lists signed, annexed, sealed up and certified in the manner aforesaid.

§ 167. **Compensation of electors.**—Every elector of the state for the election of a president and vice-president of the United States, who shall attend at any election of those officers and give his

vote at the time and place appointed by law, shall be entitled to receive for his attendance at such election, the sum of fifteen dollars per day, together with ten cents per mile, each way, from his place of residence, by the most usual traveled route, to the place of meeting of such electors, to be audited by the comptroller upon the certificate of the secretary of state, and paid by the treasurer.

§ 168. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

SCHEDULE OF LAWS TO BE REPEALED BY THE ELECTION LAW.

LAWS OF	Chapter.	Sections.
1842 .....	130 .....	All.
1844 .....	331 .....	All.
1847 .....	240 .....	All.
1854 .....	286 .....	All.
1855 .....	513 .....	All.
1856 .....	79 .....	All.
1860 .....	480 .....	All.
1870 .....	134 .....	All.
1870 .....	388 .....	All.
1871 .....	712 .....	All.
1875 .....	138 .....	All.
1876 .....	287 .....	All.
1877 .....	322 .....	All.
1878 .....	354 .....	All.
1880 .....	56 .....	All.
1880 .....	366 .....	All.
1880 .....	437 .....	All.
1880 .....	460 .....	All.
1880 .....	553 .....	All.
1881 .....	137 .....	All.
1881 .....	163 .....	All.
1882 .....	154 .....	All.
1882 .....	366 .....	All.
1883 .....	380 .....	All.
1883 .....	422 .....	All.
1885 .....	446 .....	All.
1887 .....	265 .....	All.
1889 .....	1 .....	All.
1890 .....	117 .....	All.
1890 .....	262 .....	All.
1890 .....	321 .....	All.
1891 .....	7 .....	All.
1891 .....	296 .....	All.
1891 .....	336 .....	All.

## CHAP. 681.

AN ACT in relation to public officers, constituting chapter seven of the general laws.

APPROVED by the Governor May 18, 1892. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

### CHAPTER VII OF THE GENERAL LAWS.

#### THE PUBLIC OFFICERS LAW.

- ARTICLE    I. Appointment and qualification of public officers (§§ 1-14).  
              II. Creation and filling of vacancies (§§ 20-31).  
              III. Powers and duties of public officers (§§ 40-44).

#### ARTICLE I.

##### APPOINTMENT AND QUALIFICATION OF PUBLIC OFFICERS

- SECTION    1. Short title and extent of application.  
              2. Definition.  
              3. Qualifications for holding office.  
              4. Commencement of term of office.  
              5. Holding over after expiration of term.  
              6. Mode of choosing state officers, if not otherwise provided.  
              7. Appointment by the governor and senate.  
              8. Commissions of officers.  
              9. Deputies, their appointment, number and duties.  
             10. Official oaths.  
             11. Official undertakings.  
             12. Force and effect of official undertakings.  
             13. Notice of neglect to file oath or undertaking.  
             14. Effect of revision on terms of office.

SECTION 1. Short title and extent of application.—This chapter shall be known as the public officers law, and applies to civil officers only.

§ 2. Definitions.—The term state officer includes every officer for whom all the electors of the state are entitled to vote, members of the legislature, justices of the supreme court, regents of the university, and every officer, appointed by one or more state officers, or by the legislature, and authorized to exercise his official functions throughout the entire state, or without limitation to any political subdivision of the state, except United States senators, members of congress, and electors for president and vice-president of the United

States. The term local officer includes every other officer who is elected by the electors of a portion only of the state, every officer of a political subdivision or municipal corporation of the state, and every officer limited in the execution of his official functions to a portion only of the state. The office of a state officer is a state office. The office of a local officer is a local office.

§ 3. **Qualifications for holding office.**—No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, be of full age, a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he shall be chosen, or within which the electors electing him reside, or within which his official functions are required to be exercised.

§ 4. **Commencement of term of office.**—The term of office of an elective officer, unless elected to fill a vacancy then existing, shall commence on the first day of January next after his election, if the commencement thereof be not otherwise fixed by law.

§ 5. **Holding over after expiration of term.**—Every officer except a judicial officer, a notary public, a commissioner of deeds and an officer whose term is fixed by the constitution, having duly entered on the duties of his office, shall, unless the office shall terminate or be abolished, hold over and continue to discharge the duties of his office, after the expiration of the term for which he shall have been chosen, until his successor shall be chosen and qualified; but after the expiration of such term, the office shall be deemed vacant for the purpose of choosing his successor. An officer so holding over for one or more entire terms, shall, for the purpose of choosing his successor, be regarded as having been newly chosen for such terms. An appointment for a term shortened by reason of a predecessor holding over, shall be for the residue of the term only.

§ 6. **Mode of choosing state officers if not otherwise provided.**—If the law shall not otherwise provide the mode of choosing a state officer, he shall be appointed by the governor by and with the advice and consent of the senate.

§ 7. **Appointment by the governor and senate.**—An appointment to an office by the governor by and with the advice and consent of the senate, shall be made by communicating to the senate, while in session, a written nomination of a person for the office, designating the residence of the nominee, and if nominated to be an officer of a political subdivision of the state, designating also such

subdivision, and if nominating two or more persons to the same office for different terms, designating the term for which each is nominated. If such nomination be of a successor to a predecessor in the same office, it may be made, and acted upon by the senate after the expiration of the term of such predecessor, or at any time during the legislative session of the calendar year in which the term of office of such predecessor shall expire. If the appointment be made before the expiration of the term of such predecessor, the term of office of the appointee shall commence upon the expiration of the term of such predecessor. If the senate shall reject such nomination, the clerk of the senate shall forthwith communicate, by writing, signed by the president and clerk of the senate, to the governor, the fact of such rejection. If the senate shall confirm such nomination the appointment shall be deemed complete, and thereupon duplicate certificates of the confirmation shall be made and signed by the president and clerk of the senate, who shall cause one to be delivered to the governor, and the other to the secretary of state, who shall record the same in his office in a book kept for that purpose.

§ 8. **Commissions of officers.**—The commission of every officer appointed by the governor, or by the governor by and with the consent of the senate, shall be signed by the governor and attested under the seal of this state, by the secretary of state who shall make and record in his office a copy of such commission, and deliver the original to the officer appointed, by a messenger, if the governor shall so direct, and otherwise, by mail or as the secretary of state shall deem proper. Commissions of notaries public may be signed by the governor's private secretary, and shall be sent to the county clerk of the county in which such notaries public respectively reside. Every other appointment of an officer, made by one or more state officers, shall be in writing, and signed by the officer or officers, or by a majority of the officers, or by the presiding officer of the board or body, making the appointment. Every such written appointment shall be deemed the commission of the officer appointed, and, if of a state officer, a duplicate or a certified copy thereof shall be recorded in the office of the secretary of state; if of a local officer, it shall be sent to the clerk of the county in which the officer appointed shall then reside, who shall file the same in his office, and notify the officer appointed of his appointment.

§ 9. **Deputies, their appointment, number and duties.**—Every deputy, assistant, or other subordinate officer, whose appointment or election is not otherwise provided for, shall be appointed by



his principal officer, board or other body, and the number thereof, if not otherwise prescribed by law, shall be limited in the discretion of the appointing power. If there is but one deputy, he shall, unless otherwise prescribed by law, possess the powers and perform the duties of his principal during the absence or inability to act of his principal, or during a vacancy in his principal's office. If there be two or more deputies of the same officer, such officer may designate, in writing, the order in which the deputies shall act, in case of his absence from the office or his inability to act, or in case of a vacancy in the office, and if he shall fail to make such designation, the deputy longest in office present, shall so act. If two or more deputies present shall have held the office for the same period, the senior deputy in age shall so act. Such written designation by a state officer shall be filed in the office of the secretary of state; and by any other officer, in the office of the clerk of the county in which the principal has his office. If a vacancy in a public office shall be caused by the death of the incumbent, the deputies shall, unless otherwise provided by law, continue to hold office until the vacancy shall have been filled in accordance with law.

§ 10. **Official oaths.**—An oath of office may be administered by any officer authorized to take, within the state, the acknowledgment of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed, or may be administered to any member of a body of officers, by a presiding officer or clerk thereof, who shall have taken an oath of office. The oath of office of a notary public or commissioner of deeds shall be administered by and filed in the office of the clerk of the county in which he shall reside. The oath of office of every state officer shall be filed in the office of the secretary of state; of every officer of a municipal corporation, with the clerk thereof; and of every other officer, in the office of the clerk of the county in which he shall reside, if no place be otherwise provided by law for the filing thereof. Every oath of office shall be filed within fifteen days after the officer shall have been chosen.

§ 11. **Official undertakings.**—Every official undertaking, when required by or in pursuance of law to be hereafter executed or filed by any officer, shall be to the effect that he will faithfully discharge the duties of his office and promptly account for and pay over all moneys or property received by him as such officer, in accordance with law, or in default thereof, that the parties executing such undertaking will pay all damages, costs and expenses resulting from



such default, not exceeding a sum, if any, specified in such undertaking. The undertaking of a state officer shall be approved by the comptroller both as to its form and as to the sufficiency of the sureties, and be filed in the comptroller's office. The undertaking of a municipal officer shall, if not otherwise provided by law, be approved as to its form and the sufficiency of the sureties by the chief executive officer or by the governing body of the municipality and be filed with the clerk thereof. The approval by such governing body, may be by resolution, a certified copy of which shall be attached to the undertaking. The sum specified in an official undertaking shall be the sum for which such undertaking shall be required by or in pursuance of law to be given. If no sum, or a different sum from that required by or in pursuance of law, be specified in the undertaking, it shall be deemed to be an undertaking for the amount so required. If no sum be required by or in pursuance of law to be so specified, and a sum be specified in the undertaking, the sum so specified shall not limit the liability of the sureties therein. Every official undertaking shall be executed and duly acknowledged by at least two sureties, each of whom shall add thereto his affidavit that he is a freeholder or householder within the state, stating his occupation and residence and the street number of his residence and place of business if in a city, and a sum which he is worth over and above his just debts and liabilities and property exempt from execution. The aggregate of the sums so stated in such affidavits must be at least double the amount specified in the undertaking. The failure to execute and \* official undertaking in the form or by the number of sureties required by or in pursuance of law, or of a surety thereto to make an affidavit required by or in pursuance of law, or in the form so required, or the omission from such an undertaking of the approval required by or in pursuance of law, shall not affect the liability of the sureties therein.

§ 12. **Force and effect of official undertaking.**—An officer of whom an official undertaking is required, shall not receive any money or property as such officer, or do any act affecting the disposition of any money or property which such officer is entitled to receive or have the custody of, before he shall have filed such undertaking; and any person having the custody or control of any such money or property shall not deliver the same to any officer of whom an undertaking is required until such undertaking shall have been given. If a public officer required to give an official undertaking, enters upon

\* So in the original.

the discharge of any of his official duties before giving such undertaking, the sureties upon his undertaking subsequently given for or during his official term shall be liable for all his acts and defaults done or suffered and for all moneys and property received during such term prior to the execution of such undertaking, or if a new undertaking is given, from the time notice to give such new undertaking is served upon him. Every official undertaking shall be obligatory and in force so long as the officer shall continue to act as such and until his successor shall be appointed and duly qualified, and until the conditions of the undertaking shall have been fully performed. When an official undertaking is renewed pursuant to law the sureties upon the former undertaking shall not be liable for any official act done or moneys received after the due execution, approval and filing of the new undertaking.

§ 13. Notice of neglect to file oath or undertaking.—The officer or body making the appointment or certificate of election of a public officer shall, if the officer be required to give an official undertaking to be filed in an office other than that in which the written appointment or certificate of election is to be filed, forthwith give written notice of such appointment or election to the officer in whose office the undertaking is to be filed. If any officer shall neglect, within the time required by law, to take and file an official oath, or execute and file an official undertaking, the officer, with whom or in whose office such oath or undertaking is required to be filed, shall forthwith give notice of such neglect, if of an appointive officer, to the authority appointing such officer; if of an elective officer, to the officer, board or body authorized to fill a vacancy in such office, if any, or if none and a vacancy in the office may be filled by a special election, to the officer, board or body authorized to call or give notice of a special election to fill such vacancy; except that the notice of failure of a justice of the peace to file his official oath, shall be given to the town clerk of the town for which the justice was elected.

§ 14. Effect of revision on terms of office.—If an office be continued by the general laws constituting the revision of which this chapter is a part, the person now lawfully holding such office shall, subject to the provisions of such general laws, continue therein for the term for which he was chosen, or if holding over after the expiration of his term, until his successor shall be chosen and shall have qualified

## ARTICLE II.

## CREATION AND FILLING OF VACANCIES.

## SECTION 20. Creation of vacancies.

21. Resignations.

22. Removals by senate.

23. Removals by governor.

24. Evidence in proceedings for removal by governor.

25. Removals from office.

26. Notice of existence of vacancy.

27. Terms of officers chosen to fill vacancies.

28. Filling vacancies in office of officer appointed by governor and senate.

29. Vacancy occurring in office of legislative appointee, during legislative recess.

30. Vacancies filled by legislature.

31. Filling other vacancies.

§ 20. Creation of vacancies.—Every office shall be vacant upon the happening of either of the following events before the expiration of the term thereof :

1. The death of the incumbent ;

2. His resignation ;

3. His removal from office ;

4. His ceasing to be an inhabitant of the state, or if he be a local officer, of the political subdivision, or municipal corporation of which he is required to be a resident when chosen ;

5. His conviction of a felony, or a crime involving a violation of his oath of office ;

6. The judgment of a court, declaring void his election or appointment, or that his office is forfeited or vacant ;

7. His refusal or neglect to file his official oath or undertaking, if one is required, before or within fifteen days after the commencement of the term of office for which he is chosen, if an elective office, or if an appointive office, within fifteen days after notice of his appointment, or within fifteen days after the commencement of such term ; or to file a renewal undertaking within the time required by law, or if no time be so specified, within fifteen days after notice to him in pursuance of law, that such renewal undertaking is required. When a new office or an additional incumbent of an existing office, shall be created, such office shall for the purposes of an appointment or election, be vacant from the date of its creation, until it shall be filled by election or appointment.

§ 21. **Resignations.**—Public officers may resign their offices as follows:

1. The governor, lieutenant-governor, secretary of state, comptroller, attorney-general, state engineer and surveyor, to the legislature;

2. All officers appointed by the governor alone, or by him with the consent of the senate, to the governor;

3. Senators and members of assembly, to the presiding officers of their respective houses;

4. Sheriffs, coroners, county clerks, district attorneys and registers of counties, to the governor;

5. Every other county officer, to the county clerk;

6. Every town officer, to the town clerk;

7. The officer of any other municipal corporation, to the clerk of the corporation;

8. Every other appointive officer, where not otherwise provided by law, to the body, board or officer that appointed him, and every other elective officer, where not otherwise provided by law, to the secretary of state.

Every resignation shall be in writing addressed to the officer or body to whom it is made. If addressed to an officer, it shall take effect upon delivery to him at his place of business or when it shall be filed in his office.

If addressed to the legislature or to the presiding officer of either house thereof, it shall be delivered to and filed with the secretary of state, and shall take effect when so delivered, and he shall forthwith communicate the fact of such resignation to the legislature or to such house, if in session, or if not, at its first meeting thereafter.

If addressed to any other body it shall be delivered to the presiding officer or clerk of such body, if there be one, and if not, to any member thereof, and shall take effect upon such delivery, and shall be filed with the clerk, or if there be no clerk, with the other records of such body. A delivery at the office or place of residence or business of the person to whom any such resignation may be delivered shall be a sufficient delivery thereof.

§ 22. **Removals by senate.**—The governor before making a recommendation to the senate for the removal of any officer may, in his discretion take proofs, for the purpose of determining whether such recommendation shall be made.

The secretary of state, comptroller, treasurer, attorney-general, or the state engineer and surveyor, may be removed by the senate, on

the recommendation of the governor, for misconduct or malversation in office, if two-thirds of all the members elected to the senate shall concur therein. No such removal shall be made unless the person who is sought to be removed, shall have been served with a copy of the charges against him and have an opportunity of being heard. On the question of removal, the yeas and nays shall be entered on the journal. The governor may convene the senate in extra session for the investigation of such charges. The senate shall have power to make such rules as it may see fit for the practice before it. At the time appointed for the investigation, the senate shall proceed to hear and try the charges against such officer, and may take proofs in relation thereto.

The governor may direct the attorney-general, or may appoint any suitable person to conduct the trial of such charges before the senate.

An officer appointed by the governor by and with the advice and consent of the senate, may be removed by the senate upon the recommendation of the governor.

If the senate shall reject a recommendation of removal the clerk of the senate shall, by a writing signed by him and by the president and clerk of the senate, communicate the fact of such rejection to the governor. If the senate shall concur in such a recommendation the removal shall take effect upon the passage of the resolution of concurrence, and duplicate copies of such resolution, certified by the clerk and president of the senate, shall be executed, and delivered by the clerk to the secretary of state.

**§ 23. Removals by governor.**—An officer appointed by the governor for a full term or to fill a vacancy, any county superintendent of the poor, any register of a county, or any notary public, may be removed by the governor within the term for which such officer shall have been chosen, after giving to such officer a copy of the charges against him and an opportunity to be heard in his defense.

**§ 24. Evidence in proceedings for removal by governor.**—The governor may take the evidence in any proceeding for the removal by him of a public officer or may direct that the evidence be taken before a justice of the supreme court of the district, or the county judge of the county, in which the officer proceeded against shall reside, or before a commissioner appointed by the governor for that purpose by an appointment in writing, filed in the office of the secretary of state. The governor may direct such judge or commis

sioner to report to him the evidence taken in such proceeding, or the evidence and the findings by the judge or commissioner of the material facts deemed by such judge or commissioner to be established. The commissioner or judge directed to take such evidence may require witnesses to attend before him, and shall issue subpoenas for such witnesses as may be requested by the officer proceeded against.

The governor may direct the attorney-general, or the district attorney of the county in which the officer proceeded against shall reside to conduct the examination into the truth of the charges alleged as ground for such removal. If the examination shall be before a commissioner or judge, it shall be held at such place in the county in which the officer proceeded against shall reside as the commissioner or judge shall appoint, and at least eight days after written notice of the time and place of such examination shall have been given to the officer proceeded against.

All sheriffs, coroners, constables and marshals to whom process shall be directed and delivered under this section shall execute the same without necessary\* delay.

§ 25. **Removals from office.**—Every removal of an officer by one or more state officers, shall be in written duplicate orders, signed by the officer, or by all or a majority of the officers, making the removal, or if made by a body or board of state officers may be evidenced by duplicate certified copies of the resolution or order of removal, signed either by all or by a majority of the officers making the removal, or by the president and clerk of such body or board. Both such duplicate orders or certified copies shall be delivered to the secretary of state, who shall record in his office one of such duplicates, and shall, if the officer removed is a state officer, deliver the other to such officer by messenger, if required by the governor, and otherwise by mail or as the secretary of state shall deem advisable, and shall, if directed by the governor, cause a copy thereof to be published in the state papers. If the officer removed be a local officer, he shall send the other of such duplicates to the county clerk of the county in which the officer removed shall have resided at the time he was chosen to the office, and such clerk shall file the same in his office, and forthwith notify the officer removed of his removal.

§ 26. **Notice of existence of vacancy.**—When a judgment shall be rendered by any court convicting an officer of a felony, or of a

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\* So in the original.



crime involving a violation of his oath of office, or declaring the election or appointment of any officer to be void, or that the office of any officer has been forfeited or become vacant, the clerk of such court shall give notice thereof to the governor, stating the cause of such conviction or judgment.

Whenever a public officer shall die before the expiration of his term of office, or shall cease to be a resident of the political subdivision of the state or a municipal corporation in which he is required to be a resident as a condition of continuing in the office, the county clerk of the county in which such officer shall have resided immediately prior to such death or removal, shall immediately give notice of such death or removal to the governor. If the governor is not authorized to fill any vacancy of which he shall have notice, he shall forthwith give notice of the existence of such vacancy to the officer or officers, or to the body or board of officers authorized to fill the vacancy, or if such vacancy may be filled by an election, to the officers authorized to give notice of such election.

§ 27. **Terms of officers chosen to fill vacancies.**—If an appointment of a person to fill a vacancy in an appointive office be made by the officer, or by the officers, body or board of officers, authorized to make appointment to the office for the full term, the person so appointed to such vacancy shall hold office for the balance of the unexpired term. The term of office of an officer appointed to fill a vacancy in an elective office, shall be until the commencement of the political year next succeeding the first annual election after the happening of the vacancy, if the office be made elective by the constitution, or at which the vacancy can be filled by election, if the office be otherwise made elective.

§ 28. **Filling vacancies in office of officer appointed by governor and senate.**—A vacancy which shall occur during the session of the senate, in the office of an officer appointed by the governor by and with the advice and consent of the senate, shall be filled in the same manner as an original appointment. Such a vacancy occurring or existing otherwise than by expiration of term, while the senate is not in session, shall be filled by the governor for a term which shall expire at the end of twenty days from the commencement of the next meeting of the senate.

§ 29. **Vacancy occurring in office of legislative appointee, during legislative recess.**—When a vacancy shall occur or exist, otherwise than by expiration of term, during the recess of the legislature, in the office of any officer appointed by the legislature, the



governor shall appoint a person to fill the vacancy for a term which shall expire at the end of twenty days from the commencement of the next meeting of the legislature.

§ 30. Vacancies filled by legislature.—When a vacancy occurs or exists, other than by removal, in the office of the secretary of state, comptroller, treasurer, attorney-general, or state engineer and surveyor, or a resignation of any such office to take effect at any future day shall have been made while the legislature is in session, the two houses thereof, by joint ballot, shall appoint a person to fill such actual or prospective vacancy.

§ 31. Filling other vacancies.—If a vacancy shall occur, otherwise than by expiration of term, with no provision of law for filling the same, if the office be elective, the governor shall appoint a person to execute the duties thereof until the vacancy shall be filled by an election. But if the term of such officer shall expire with the calendar year in which the appointment shall be made, or if the office be appointive, the appointee shall hold for the residue of the term.

## ARTICLE III.

### POWERS AND DUTIES OF PUBLIC OFFICERS.

SECTION 40. Official seals of court of appeals and state officers.

41. Business in public offices on public holidays.
42. Payment of expenses of public officers.
43. Laws repealed.
44. When to take effect.

SECTION 40. Official seals of court of appeals and state officers.—The seal of the court of appeals and of the second division of the court of appeals and of each state officer authorized to use an official seal, shall be of metal with the device of the arms of the state surrounded with the inscription, State of New York, and the name of the court or official designation of the officer. The seal of each of such courts, the privy seal of the governor, and the seal of the secretary of state, comptroller, treasurer, state engineer and surveyor, the adjutant general, and of each of the other state officers at the capital, required to have an official seal shall be two and one-quarter inches in diameter, and of each other state officer authorized to have an official seal, shall be one and three-quarters inches in diameter. Such seal heretofore provided by the secretary of state shall continue to be used by such courts and officers, and when defective from wear or otherwise, shall be delivered to the secretary of state who

shall cause them to be repaired and returned, or to be defaced with a suitable mark, or deposited with the ancient seals in the state library, and new seals to be provided for use instead.

§ 41. **Business in public offices on public holidays.**—Holidays and half holidays shall be considered as Sunday for all purposes relating to the transaction of business in the public offices of the state, and of each county.

§ 42. **Payment of expenses of public officers.**—Every public officer who is not allowed any compensation for his services shall be paid his actual expenses necessarily incurred in the discharge of his official duties.

§ 43. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 44. **When to take effect.**—This chapter shall take effect on October 1, 1892.

SCHEDULE OF LAWS REPEALED.

Revised Statutes.....Part I, chapter 5.....All.

LAWS OF	Chapter	Sections.
1830.....	58.....	All
1837.....	436.....	All
1848.....	4.....	All
1849.....	28.....	All
1849 .....	46.....	All
1850.....	126.....	All
1866.....	629.....	All
1867.....	335.....	All
1873.....	85.....	All
1875.....	397.....	All
1876.....	133.....	All
1880.....	4.....	All
1882.....	216. ....	All
1883.....	285.....	All
1883.....	522.....	All
1887.....	372.....	All
1890.....	367.....	All

## CHAP. 682.

AN ACT in relation to legislation, constituting chapter eight of the general laws.

APPROVED by the Governor May 18, 1892. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

### CHAPTER VII OF THE GENERAL LAWS.

#### THE LEGISLATIVE LAW.

- ARTICLE I. Members, officers and employes of the legislature. (§§ 1-22.,  
II. The enactment and publication of laws. (§§ 40-49.)  
III. Legislative committees; testimony in legislative proceedings. (§§  
60-65.)  
IV. Legislative printing and binding. (§§ 70-81.)

#### ARTICLE I.

##### MEMBERS, OFFICERS AND EMPLOYES OF THE LEGISLATURE.

- SECTION 1. Short title.  
2. Exemption of members and officers from arrest.  
3. Expulsion of members.  
4. Contempts of either house.  
5. Payment of salaries of members.  
6. Officers and employes of the senate.  
7. Officers and employes of the assembly.  
8. Appointments to be entered on journals  
9. Stenographers to special committees.  
10. Compensation of officers and employes.  
11. Compensation during extra sessions and impeachment trials.  
12. Attendance of officers of each session at opening of next session.  
13. Officers remaining after adjournment.  
14. Undertaking of clerk of each house.  
15. Duties of clerks.  
16. Supplies furnished by clerks.  
17. Accountability of clerks to comptroller.  
18. Duties of postmasters and assistants.  
19. Duties of stenographers.  
20. Detail of officers and employes for special duties.  
21. Limitation of legislative expenses.  
22. Custody of legislative papers and documents.

SECTION 1. Short title.—This chapter shall be known as the legislative law.

§ 2. Exemption of members and officers from arrest.—  
A member of the legislature shall be privileged from arrest in a civil

action or proceeding other than for a forfeiture or breach of trust in public office or employment, while attending upon its session, and for fourteen days before and after each session, or while absent for not more than fourteen days during the session with the leave of the house of which he is a member.

An officer of either house shall be privileged from arrest in such a civil action or proceeding while in actual attendance upon the house. Either house shall have the power to discharge from arrest any of its members or officers arrested in violation of his privilege from arrest.

§ 3. **Expulsion of members.**—Each house has the power to expel any of its members after the report of a committee to inquire into the charges against him, shall have been made.

§ 4. **Contempts of either house.**—Each house may punish by imprisonment not extending beyond the same session of the legislature, as for a contempt, for the following offenses only:

1. Arresting a member or officer of either house in violation of his privilege from arrest;

2. Disorderly conduct of its members, officers or others in the immediate view and presence of the house, tending to interrupt its proceedings;

3. The publication of a false and malicious report of its proceedings, or of the conduct of a member in his legislative capacity;

4. Giving or offering a bribe to a member, or attempting, by menace or other corrupt means, directly or indirectly, to influence a member in giving or withholding his vote, or in not attending meetings of the house of which he is a member;

5. Neglect to attend or to be examined as a witness before the house, when duly required to give testimony in a legislative proceeding.

§ 5. **Payment of salaries of members.**—The salary of a member of the legislature shall be payable during the session, from time to time, at the rate of ten dollars per day, at any time during the session, for the number of days then expired, not exceeding in the aggregate twelve hundred dollars, before the final adjournment of the legislature. The balance of such salary shall be payable at the final adjournment of the legislature.

§ 6. **Officers and employes of the senate.**—The president of the senate may appoint a clerk and a messenger to be known as the president's clerk and the president's messenger.

The senate may choose a clerk, a sergeant-at-arms, a stenographer,

a postmaster, who shall also act as assistant sergeant-at-arms, an assistant postmaster, a post-office messenger, a principal doorkeeper, and four assistant doorkeepers, a person to act as janitor of the senate chamber and its ante-rooms, and one assistant janitor, ten persons to serve as clerks to the committees, one of whom shall be designated to serve as clerk to the committee on finance; one to the committee on judiciary, one to the committee on cities, one to the committee on railroads, one to the committee on canals, and the others to serve under the direction of the clerk of the senate upon the remaining standing committees of the senate.

The clerk of the senate may appoint one assistant clerk, a journal clerk, an assistant journal clerk, four deputy clerks, a clerk to the committee on engrossed bills, a librarian, an assistant librarian, an assistant financial clerk and bank messenger, a superintendent of documents, two assistant superintendents of documents; such superintendent of documents and his assistant to also perform the work of the wrapping department, three messengers, and ten pages, who shall be appointed for the session and who shall not be under fourteen years of age, to serve under the direction of the clerk of the senate as messengers to committees.

§ 7. Officers and employes of the assembly.—The speaker of the assembly may appoint a clerk and a messenger, to be known as the speaker's clerk and the speaker's messenger respectively.

The assembly may choose a clerk, a sergeant-at-arms, a stenographer, a principal doorkeeper, who shall act as assistant sergeant-at-arms, a first and second assistant, and six assistant doorkeepers, a postmaster, and an assistant postmaster, a post-office messenger, a janitor of the assembly chamber and its ante-rooms, one assistant janitor, three general messengers and thirteen clerks of committees, one of whom shall be designated to serve as clerk to the committee on ways and means, one as clerk to the committee on appropriations, who shall act as clerk to the subcommittee of the whole, one as clerk to the committee on judiciary, one as clerk to the committee on cities, one as clerk to the committee on railroads, and the others to serve under the direction of the clerk of the assembly.

The clerk of the assembly may appoint an assistant clerk, a journal clerk, an assistant journal clerk and nine deputy clerks, one of whom shall act as clerk to the committee on engrossed bills, and one as clerk to the committee on revision, who shall be an expert in matters pertaining to that position, an assistant clerk to the committee on engrossed bills, a librarian, an assistant librarian, an assistant financial

clerk, a bank messenger, a superintendent of the wrapping department, a mail and document carrier, a superintendent of documents, three messengers, one of whom shall have the charge of the pages under the direction of the clerk of the assembly, three messengers to committees, and twenty-five pages.

§ 8. **Appointments to be entered on journals.**—All appointments made under this chapter shall be entered on the journal of the house wherein made, with a statement of the date of appointment and the length of time the same is to continue.

§ 9. **Stenographers to special committees.**—No additional officers or employes shall be elected or appointed by the senate or assembly, except that either house, by a majority vote, may employ a stenographer for a committee of investigation or other special committee.

§ 10. **Compensation of officers and employes.**—The following compensations shall be paid to the officers and employes of the senate and assembly for the annual session of the legislature :

To the clerk of each house three thousand five hundred dollars ; to the clerk of the senate five hundred dollars and to the clerk of the assembly, seven hundred and fifty dollars for indexing the journals, bills and documents of the senate and assembly ; to the clerk of the senate not to exceed five hundred dollars, and to the clerk of the assembly not to exceed seven hundred and fifty dollars, for the extra clerical service and engrossing ; to each assistant clerk and journal clerk, two thousand dollars ; to each assistant journal clerk, one thousand five hundred dollars ; to each deputy clerk one thousand five hundred dollars ; to the assistant financial clerk and bank messenger of the assembly, each ten dollars per day ; to the clerk of the president of the senate and to the speaker's clerk, each seven dollars per day ; to each sergeant-at-arms, librarian, assistant librarian, postmaster, assistant postmaster and principal door-keeper, six dollars per day ; to each assistant door-keeper, janitor, assistant janitor and superintendent of documents, and to the assistant superintendent of documents of the assembly, five dollars per day ; to each stenographer or each house, one thousand five hundred dollars each ; to each clerk of the committee of ways and means, appropriations, judiciary and affairs of cities of the assembly, and the finance, judiciary and affairs of the cities of the senate, seven dollars per day ; to the clerk of the committee on engrossed bills of the senate, six dollars per day ; to each clerk of the other committees of each house, five dollars per day ; to the assistant clerk of committee on engrossed

bills of the assembly, five dollars per day; to each post-office messenger of each house, three dollars per day; to the messenger of the president of the senate and the speaker's messenger, each three dollars per day; to the assistant financial clerk and bank messenger of the senate, ten dollars per day; to the superintendent of the wrapping department, the mail and document carrier of the assembly, and the assistant superintendent of documents of the senate, each five dollars per day; to each general messenger of each house, three dollars per day; to each clerk's messenger of each house, and to each messenger of the committees of the assembly, three dollars per day; and to each page, two dollars per day. The pay of officers or employes who receive by this chapter a per diem compensation shall commence at the date of the appointment.

**§ 11. Compensation during extra sessions and impeachment trials.**—An employe of the senate or assembly, during an extra session of the legislature, or an officer or employe of the senate designated to attend upon the senate when sitting as a court for the trial of impeachments, or upon the trial of public officers on the recommendation of the governor, shall receive the same per diem allowance during such term or extra session as his compensation or per diem allowance would give per day of the regular session of the same year.

**§ 12. Attendance of officers of each session at opening on next session.**—The following officers only of each session shall attend and receive compensation for their services upon the opening of the next succeeding session of the legislature.

The clerk of each house, or in his absence or disability, the assistant clerk and the journal clerk, speaker's clerk, sergeant-at-arms, postmasters, librarian and principal door-keeper of the senate and assembly, an assistant door-keeper and four pages in the senate, and three assistant door-keepers, two messengers and six pages in the assembly, the assistant door-keepers, messengers and pages to be designated by the presiding officer of the house for which appointed before the close of the session and entered upon the journal of the house. The officers named in this section shall receive for services upon the opening of a succeeding session of the legislature the same per diem compensation as they were entitled to receive at the preceding session for like services.

**§ 13. Officers remaining after adjournment.**—The presiding officer of each house may designate three officers thereof to remain after the adjournment of the legislature to perform duty under the



direction of the clerk of each house, respectively, for not to exceed ten days. Such officers shall receive the same per diem compensation, respectively, as they were entitled to receive during the session, to be paid upon the warrant of comptroller, on the certificate of the clerk of the house for which appointed.

§ 14. **Undertaking of clerk of each house.**—The clerk of each house before entering on the duties of his office, shall execute an official undertaking in the sum of five thousand dollars.

§ 15. **Duties of clerks.**—The clerks of the senate and assembly shall annually, without extra compensation, revise, and send to the members of the legislature, before the organization thereof, the Clerk's Manual, and shall, within thirty days after the organization of the legislature, prepare a statistical list of the members and officers, with their boarding places or place of residence while in the city of Albany.

The clerk of each house shall, as soon as practicable after the close of each session, prepare and deliver to the legislative printer the indexes to the journals, bills and documents of such house.

§ 16. **Supplies furnished by clerks.**—The clerk of each house shall purchase all stationery, printed blanks and other articles necessary for use in his official work or in the work of the sergeant-at-arms; and shall furnish its members, officers and reporters with stationery, writing materials and newspapers, at an expense of not more than thirty dollars for each person, which upon the request of the person entitled thereto, may be furnished by an order drawn by the clerk on the publisher or vendor of the newspapers, or upon any stationer or bookseller designated by such person for the newspapers or materials to be supplied. Such an order returned to the clerk, with the certificate of the person in whose favor it was drawn, that he has received such articles, shall be a sufficient voucher to the clerk, and from him to the comptroller, of the delivery thereof. The clerk of each house shall, under the direction and subject to the approval of the comptroller, purchase such furniture as may be necessary for the house of which he is clerk.

§ 17. **Accountability of clerk to comptroller.**—The clerk of each house at the end of each month during the session shall account to the comptroller for all moneys received up to that time, and within ten days after the close of the session, shall file with the comptroller an abstract in such form and containing such particulars as the comptroller shall direct, of all newspapers ordered by him for the members, and of all other expenditures made by him, with the

vouchers therefor; and shall give him satisfactory evidence that the expenditures were reasonable.

§ 18. **Duties of postmasters and assistants.**—The postmasters and assistant postmasters and post-office messengers shall perform all the labors in the post-offices of their respective houses.

§ 19. **Duties of stenographers.**—The stenographers shall attend at every session of the body for which they are appointed or elected and take stenographic notes of the debates of such body and in the committee of the whole thereof, and furnish a copy thereof written out in long hand to any member of such body. They shall keep and prepare for publication a record of all the proceedings in each house, excluding debates, and in the committees of the whole thereof, excluding debates and votes taken therein, which shall be known as the Legislative Record of the state of New York, and shall be delivered by the stenographers daily to the legislative printer.

§ 20. **Detail of officers and employes for special duties.**—The presiding officer and clerk of each house may detail any of the officers or employes thereof to perform such duties in addition to those ordinarily performed as they may deem advisable to promote the business of such house.

§ 21. **Limitation of legislative expenses.**—Neither house shall, without the consent of the other, order to be printed more than four thousand copies of any paper or document, or the purchase of any books, the aggregate cost of which shall exceed one hundred dollars; or appoint any committee of its own members or others at the public expense, except in case of contested elections; or incur any expense whatever except as provided by this chapter.

§ 22. **Custody of legislative papers and documents.**—The clerk of each house shall take charge of and keep on file all documents of such house, and those presented to it; and shall cause all papers in his charge to be so classified and arranged, that they can be easily found.

No paper shall be withdrawn from the files of either house, whether the same be in charge of the regents of the university or the clerk of such house, except that such clerk or a deputy appointed by him shall have access to the papers of such house in charge of the regents for the purpose of taking copies. Any person may obtain a certified copy of any paper or document on such files by applying to the clerk in charge thereof, and paying to such clerk the same fees as are charged by law by the secretary of state for engrossing and certifying exemplifications of records deposited in his

office. Either house may, by resolution, order title deeds or original documents accompanying any petition to be delivered to the person entitled thereto.

## ARTICLE II.

### THE ENACTMENT AND PUBLICATION OF LAWS.

#### SECTION 40. Certificate of presiding officer.

41. Evidence of when bill becomes a law.
42. Deposit of laws and concurrent resolutions with secretary of state.
43. Time of taking effect of laws.
44. Statements in session laws as to passage of law.
45. Contents of published volumes of session laws.
46. Officers and institutions entitled to receive session laws.
47. Officers and institutions entitled to receive bound volumes of journals, bills and documents.
48. Slips of session laws and concurrent resolutions to be forwarded to newspapers.
49. Slips of session laws to be forwarded to clerks.

**SECTION 40. Certificate of presiding officer.**—Upon the passage of a bill or concurrent resolution by either house, the presiding officer thereof shall append to such bill or resolution, a certificate of the date of its passage by the votes of two-thirds of all the members selected to such house, or in the presence of three fifths of such members, as the case may be. No bills shall be deemed to have so passed unless certified by the presiding officer, which certificate to such effect shall be conclusive evidence thereof.

**§ 41. Evidence of when bill becomes a law.**—If a bill becomes a law by the approval of the governor, the certificate of the governor shall be the evidence of the time when the bill becomes a law. If a bill becomes a law by the failure of the governor to sign it or to return it to the house where it originated without his approval within the time required by the constitution, the certificate of the secretary of state of the time when it was filed in his office shall be evidence of the time when it became a law.

**§ 42. Deposit of laws and concurrent resolutions with secretary of state.**—Every concurrent resolution upon its passage, and every bill upon its becoming a law, with the certificate of the presiding officer of each house appended thereto, shall be deposited with the secretary of state. The secretary of state shall forthwith upon such deposit indorse upon each bill his certificate of the day, month and year it was filed in his office, and his certificate to such effect shall be presumptive evidence thereof. The secretary of state shall cau

the original laws and concurrent resolutions passed at each session to be bound together in a volume of convenient size to be kept in his office. He shall compare with the original a volume of the printed laws, and having noted therein at the end of each law or resolution any error in the printed volume, shall deposit such printed volume with the original volume in his office. Each such volume shall be lettered on its back with its title and the session at which the laws were passed.

§ 43. Time of taking effect of laws.—Every law, unless a different time shall be prescribed therein, shall not take effect until the twentieth day after it shall have become a law.

§ 44. Statement in session laws as to passage of law.—In the publication of every law, the secretary of state shall omit the certificates appended thereto, but shall cause to be inserted immediately under the title of the law, a statement to the effect that it became a law upon the properly specified date, with or without the approval of the governor, or notwithstanding his objections, as the case may be, and adding the words “passed by a two-thirds vote,” or “passed, three-fifths being present,” in accordance with the certificates appended to the original bill. Such statement shall be presumptive evidence that the original law was certified by the presiding officer of each house accordingly.

§ 45. Contents of published volumes of session laws.—The secretary of state shall annually cause indexes to the laws to be prepared as soon as possible after the adjournment of the legislature and shall cause a statement of the names and residences of the governor, lieutenant-governor, senators and members of assembly, and presiding officers of both houses in office during each session, the laws and concurrent resolutions passed thereat, the indexes thereof, and such other matters as are required to be published in the volumes of the session laws, to be printed and bound. Each volume printed for the state shall contain the certificate of the secretary of state that it was printed under his direction.

§ 46. Officers and institutions entitled to receive session laws.—As soon as the session laws of each session are printed and bound the secretary of state shall distribute the bound printed volumes:

1. To the clerk of the senate for the use of the senate, sixteen copies, and to the clerk of the assembly for the use of the assembly, eighteen copies;

2. To the governor for the use of the executive chamber, the

lieutenant-governor, members of the legislature, clerks of the two houses, judges of the court of appeals, county judges, judges of the superior city courts, and the commissioners of claims, each one copy; and to each state officer, and to each board or commission of state officers having an office in the capitol, for their respective offices, each one copy.

3. One copy to each of the following officers: each town clerk for the use of the town, each district attorney, the clerk of each board of supervisors for the use of the board, each surrogate, except where the county judge acts as surrogate, for the use of the surrogate's court, to the mayor of each city for the use of the city and to each village clerk. Every such officer shall deliver such copy of the session laws to his successor in office.

4. To each incorporated college or university of the state, one copy;

5. To the athenæums of the cities of Philadelphia, Boston, New York and Albany, and to the Historical Society of the City of New York, each one copy;

6. To the secretary of state of the United States, four copies;

7. To the governors of the several states as many copies as are directed to be sent by the governor of this state.

§ 47. Officers and institutions entitled to receive bound volumes of journals of\* bills and documents.—As soon as the journals, bills and documents are bound, the secretary of state shall distribute them as follows:

1. For the senate, thirty-eight copies of the journals and documents;

2. For the assembly, one hundred and fifty copies of the journals and documents;

3. For the senate library, three copies of the journals and documents, and two copies of the bills;

4. For the assembly library, five copies of the journals and documents, and three copies of the bills;

5. For counties, public officers and incorporated colleges and universities in this state, one hundred and twenty-three copies of the journals and documents;

6. For the literary and scientific exchanges, to be made by the regents of the university, including one copy of each for each state and territory, one hundred and seven copies of the journals and documents;

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\* So in the original.

7. For the state library, two copies of the journals documents and bills;

8. To the executive chamber, one copy of the bills;

9. To the office of the secretary of state, one copy of the bills.

§ 48. Slips of the session laws and concurrent resolutions to be forwarded to newspapers.—The secretary of state shall send to each newspaper designated by the members of the board of supervisors representing, respectively, each of the two principal political parties into which the people of the county are divided, or if there is but one newspaper published in a county, to such newspaper in the order in which they are passed, and as soon as the slips are printed, copies of all laws of a general nature, of such local laws as relate to the affairs of the county in which such newspaper is published, and of such concurrent resolutions, as are required to be published.

Concurrent resolutions proposing amendments to the constitution shall be published in such newspapers once in each week for thirteen consecutive weeks, under the direction of the secretary of state, at the expense of the state.

§ 49. Slips of session laws to be forwarded to clerks.—The secretary of state, as soon as practicable after the receipt of the slips of the session laws from the printer, shall send a printed slip of each law and concurrent resolution of the legislature to each town, village, city and county clerk, which shall be kept on file in the offices of such clerks, arranged in the order in which they were pass

## ARTICLE III.

### LEGISLATIVE COMMITTEES; TESTIMONY IN LEGISLATIVE PROCEEDINGS.

SECTION 60. Testimony before legislative committees.

61. Subcommittees.

62. Witnesses fees.

63. Expenses of committees.

64. Contested elections.

65. Expenses of unsuccessful contestant.

SECTION 60. Testimony before legislative committees.—A legislative committee may require the the \* attendance of witnesses in this state, whom the committee may wish to examine, or may issue a commission for the examination of witnesses who are out of the state,

\* So in the original.



or unable to attend the committee, or excused from attendance, which commission, if directed by the house or legislature by which the committee is appointed, may be executed during the recess of the legislature. A commission, issued as provided by this section, shall be in the form used in the courts of record of this state, and shall be executed in like manner. Unless otherwise instructed by the committee appointing them, the commissioners shall examine privately every witness attending before them, and shall not make public the particulars of such examination.

§ 61. **Subcommittees.**—Whenever any standing committee of either house of the legislature shall be required to make an inquiry or investigation, such committee may appoint a subcommittee of not less than three of its own members to make such inquiry or investigation, and to take testimony in relation thereto; and such committee or subcommittee and the chairman thereof shall respectively have all the powers and authority, which are conferred by law upon any committee which is authorized to send for persons or papers, or upon the chairman thereof.

§ 62. **Witnesses fees.**—Any person attending as a witness under the provisions of the last two sections shall receive the same fees as are allowed witnesses in civil actions in courts of record. Such fees need not be prepaid, but the comptroller upon the certificate of the chairman of the committee, and proof by affidavit or otherwise that the same is due, shall draw his warrant for the payment of the amount thereof.

§ 63. **Expenses of committees.**—Whenever by resolution of either house, a committee duly appointed by it, shall be directed to conduct an investigation or take testimony in any other place than the city of Albany, the comptroller shall draw his warrant for the payment of the actual and necessary expenses of the committee or subcommittee having in charge such investigation, inquiry or taking of testimony, and of the officers and employees authorized to accompany them, upon the rendition of an itemized bill of such expenses certified by the chairman of the committee, and approved by the presiding officer of the house, by which the committee was appointed, and upon proof by affidavit or otherwise that the same is due.

§ 64. **Contested elections.**—Upon the application of any person desirous of obtaining testimony respecting the election of a member of either house, for the purpose of contesting an election, or resisting a contest thereof, any county judge of the county, or justice of the supreme court of the district, or the mayor or recorder of a city in



which the member or applicant shall reside, may require the attendance of persons named by the applicant, at a specified time and place, to be examined respecting such election ; and shall, at the same time, issue a notice to the opposite party of the time, place and object of such examination. The notice shall be served in the same manner as a notice of motion in a court of record. At the time appointed for the examination, upon proof of the due service of such notice, the witnesses who shall attend or who shall be produced by either party, shall be examined under oath before such officer, respecting such matters relating to the election about to be contested, as shall be proposed by either party. The testimony given upon such examination shall be reduced to writing, signed by the witnesses respectively, certified by the officer before whom it was taken, and with the subpoena, notice and proof of the service thereof, shall be sent by him under seal to the clerk of the house to which the election pertains.

A witness attending before such officer, by virtue of a subpoena, shall receive the same fees, as are allowed to witnesses in civil suits in courts of record, to be paid by the party at whose instance such witness was summoned.

§ 65. **Expenses of unsuccessful contestant.**—When the seat of any member of the legislature shall be contested, no expense incurred by the contestant, in prosecuting his claim, shall be paid by the state, unless such seat be awarded to the contestant.

## ARTICLE IV.

### LEGISLATIVE PRINTING AND BINDING.

- SECTION 70. Definition of legislative printing.
- 71. Proposals for printing session laws.
- 72. Proposals for other legislative printing.
- 73. Printing legislative journals.
- 74. Printing bills.
- 75. Printing messages and reports.
- 76. Extra copies of messages and reports.
- 77. Extra copies of legislative documents.
- 78. Legislative Record.
- 79. Legislative binding.
- 80. Laws repealed.
- 81. When to take effect.

SECTION 70. **Definition of legislative printing.**—The legislative printing shall include the printing of the slips of the session laws and

the state edition thereof, and all the bills, journals and documents of the senate and assembly and such extra copies thereof as may be ordered pursuant to law for the use of the legislature or state officers or state departments, or state institutions or societies which are required by law to make reports to the legislature, including the edition of the annual report of the superintendent of insurance, of the superintendent of banks and of the board of railroad commissioners.

§ 71. **Proposals for printing session laws.**—The secretary of state and comptroller shall, on or before the first day of April in each year, give at least twenty days notice in at least two newspapers published in the city of Albany, that on or before a specified day they will receive sealed proposals for the printing and delivery at the office of the secretary of state within three days after a copy thereof shall have been furnished of the slips of the session laws in such number as the secretary of state shall order; and for the printing and publishing for the use of the state of two thousand copies, or such additional number as the legislature by concurrent resolution may order of the session laws with the indexes thereto, and such other matters as are required to be published therewith, the work to be done in the city of Albany in the same style of execution as to type and paper as heretofore furnished. The notice may invite proposals for the printing separately of such laws passed at any session of the legislature as the secretary of state may deem to be general laws, within forty days after the adjournment of the legislature, and the remainder of the laws to be printed separately within ten days after the time limited for the completion of the printing of the general laws, or for the printing or publishing in a continuous volume or volumes of all the laws so passed within twenty days after the secretary of state shall have furnished the copy therefor, and of the terms upon which copies of the session laws will be furnished to the public after the completion and delivery of the state edition to the binder as directed by the secretary of state, and of the places in the cities of Albany and of New York where the same will be kept on sale.

To every such bid there shall be annexed the guaranty of a guarantor of sufficient ability, that the person making such bid will, if the same is accepted, enter into a contract according to the terms thereof, and give the security required within the time specified in the notice, and to every such guaranty a certificate shall be annexed of the county judge of the county where the guarantor resides, that the guarantor is a freeholder and able to make good his guaranty.

Upon receiving such proposals, the secretary of state and comptroller shall enter into a contract with the person or persons who make the lowest bid and furnish security of not less than ten thousand dollars, approved by them, and they may discriminate in favor of such bid as they deem most favorable to the state and to the public, as to price, time and manner of execution, or may reject all the bids, if deemed unfavorable or disadvantageous and advertise anew for such work.

Upon the failure or non-performance of the terms of the contract as entered into, the comptroller shall withhold payment from the contractor for printing and publishing thereunder, and shall enforce payment of the penalty named in the bond, which shall be recoverable as liquidated damages in an action by the people.

§ 72. **Proposals for other legislative printing.**—The secretary of state, the attorney general and comptroller, shall on or before the first day of May, 1893, and on or before the first day of May in each alternate year thereafter, give notice in two public newspapers of different politics, published in each of the cities of Albany, Troy, New York, Syracuse, Rochester and Buffalo, that they will, thirty days after the publication of such notice, and on a day named therein, receive sealed proposals for the whole of the printing and other work provided to be done under this article, except the printing of the session laws and slips, and such other work as is required to be done under the direction of the secretary of state, for two years commencing on the first day of October next thereafter, to be performed in the manner to be prescribed in such notice, at the expiration of which time they shall open said proposals and enter into a contract with such person or firm as shall make the lowest offer or offers computed upon the basis of the number of ems of composition and pages printed during the preceding year, and the number of copies called for by this article. Such person or firm shall give security to the people of the state of New York, to the satisfaction of the secretary of state, attorney-general and comptroller, for the faithful performance of his or their contracts, which shall be made and continued in force for two years, commencing on the first day of October next after the opening of the bids. Such officers shall have the right to reject any proposal or proposals where there shall appear to be collusion between the bidders to the disadvantage of the state, and to readvertise for proposals for the same, until advantageous and satisfactory proposals shall be received and shall so readvertise whenever any contract shall be annulled or abrogated as

provided by this article. The secretary of state, attorney-general and comptroller shall furnish all persons desiring to propose or bid for the public or legislative printing, blanks for proposals or bids for such printing in the form following

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To the honorable secretary of state, attorney-general and comptroller: (Name of person or persons, or firm, as the case may be, and place of residence). The undersigned propose to do public or legislative printing and work connected therewith, for the state of New York, at the prices and on the conditions herein named, and agree to comply fully with the requirements of law relative to the public or legislative printing, and in quantity, quality and manner set forth, described and provided in the advertisement or notice calling for proposals for said printing, namely: For each one thousand ems of composition for senate and assembly bills, \$ , and for paper, press-work, pressing, folding, stitching and trimming of each four pages, for six hundred and forty copies, \$ ; and for each additional one hundred copies thereof, for paper, press-work, pressing, folding, stitching and trimming for each signature of four pages, when ordered by statute, \$ . Journals, legislative record, messages from the governor, reports of standing or select committees, and the testimony taken before such committees when ordered to be printed, and reports and communications made in pursuance of law, or of a resolution of either house when ordered by the house to which such message, report or communication shall have been made, or by joint resolution, at the prices following.

- For each one thousand ems of plain matter, \$ ; for each one thousand ems of rule, or rule and figure composition, \$ ; for the paper, press-work, pressing, folding, stitching and trimming of each signature of eight pages, for seven hundred and nineteen copies of the journals or documents of each house, \$ ; and for the paper, press-work, pressing, folding, stitching and trimming of each additional one hundred copies of journals or documents of either house, for each signature of eight pages, when ordered by statute, \$ .
- When extra copies of messages from the governor, reports of standing or select committees and reports and communications made in pursuance of law, or of a resolution of either house, or of a concurrent resolution, are ordered by statute to be printed and bound, the price for binding to be as follows:

For binding in paper covers extra copies of reports ordered as

above set forth, per copy, \$     ; for binding in cloth extra copies of reports ordered as above set forth, per copy, \$     ; for engraving on stone, steel or wood, and printing maps, plans and illustrations for the legislative documents, the price to be paid, including cutting, folding and pasting the same, shall in no case exceed the lowest rates current for work of the desired quality in Albany and New York city at the time said work may be done. It is understood that no extra pay will be claimed or allowed for any corrections or alterations in proof-sheets. And the right to abrogate or annul any contract made in pursuance hereof, for failure or non-performance on the part of said person or firm, is hereby expressly reserved to the secretary of state, attorney-general and comptroller; hereby guarantee that if the foregoing bid for the public or legislative printing is accepted, that     will enter into a contract in compliance with said proposals, and give the necessary security, certify that the above guarantor resides in the     of     freeholder, and able to make good     guaranty.

To every bid there shall be annexed the guaranty of one or more guarantors of sufficient ability, that the person making such bid will, if the same be accepted, enter into a contract according to the terms thereof, and give the security required by law in such case, within the time specified for the purpose in such notice; and to every such guaranty a certificate shall be annexed of the county judge of the county where the guarantor resides, that the guarantor is a freeholder and able to make good his guaranty, together with a certified check on some state bank or national bank, or the money, to the amount of five per centum of said bid.

§ 73. **Printing legislative journals.**—There shall be printed by such contractor, within forty-eight hours after the receipt of the copy from the clerks of the senate and assembly, seven hundred and nineteen copies of the journal of each house. As soon as they are printed, he shall deliver them in sheets folded, stitched and trimmed as follows: To the superintendent of documents of the senate, eighty copies; to the superintendent of documents of the assembly, one hundred and ninety copies; to the state officers, thirty copies to the state library, one copy; and the remaining copies gathered and collected in the order of their numbers in volumes of not less than one thousand pages and in every way ready for the binder with the indexes thereto, shall be delivered by him as soon as practicable after the close of the session to the secretary of state.

§ 74. **Printing bills.**—There shall be printed by such contractor,

within twenty-four hours after the receipt of the copy, six hundred and forty copies of each bill, the printing of which shall be ordered by either house. As soon as they are printed, he shall deliver them as follows: To the superintendent of documents of the senate, one hundred and fifty copies; to the superintendent of documents of the assembly, four hundred and fifty copies; to the state officers, thirty copies; to the state library, one copy; and the remaining copies gathered and collected in the order of their numbers and in every way ready for the binder, with the indexes thereto, shall be delivered by him as soon as possible after the close of the session to the secretary of state.

§ 75. **Printing messages and reports.**—There shall be printed by such contractor before the first day of February in each year, seven hundred and nineteen copies of the messages from the governor, reports of standing or select committees (which shall not include testimony taken by such a committee, when printed for the use of the committee by the order of either house), and reports and communications made in pursuance of law, when ordered by the house to which such message, report or communication shall be made. As soon as they are printed he shall deliver them in sheets folded, stitched and trimmed as follows: To the superintendent of documents of the senate, eighty copies; to the superintendent of documents of the assembly, one hundred and ninety copies; to the state officers, thirty copies; to the state library, one copy; and the remaining copies gathered and collected in the order of their numbers and in volumes of not less than one thousand pages, and in every way ready for the binder, with the indexes thereto, shall be delivered by him as soon as possible after the close of each session, to the secretary of state. The expense of printing and binding the annual report of the superintendent of insurance, shall be determined by the superintendent of insurance and comptroller; of the superintendent of banks, by the superintendent of banks and the comptroller; and of the board of railroad commissioners, by the board of railroad commissioners and the comptroller.

§ 76. **Extra copies of messages and reports.**—In addition to the usual number of regular reports made by the state officers and institutions, there shall be printed as extra copies of legislative documents for the use of the respective departments, institutions and boards: Of the governor's message, six thousand copies, one thousand for the governor and five thousand for the legislature; of the comptroller's report of the finances of the state, one thousand copies;



on the canals, two hundred and fifty copies; of the state treasurer's report, seven hundred copies; of the attorney-general's report, five hundred copies bound in cloth, one hundred for the use of the attorney-general, and four hundred for the use of the legislature; of the state engineer and surveyor's report on canals, two thousand five hundred copies, one thousand copies of the same to be bound in cloth; of the report of the superintendent of the insurance department, in addition to the fifteen hundred copies authorized by law, two thousand copies; of the report of the adjutant-general, one thousand copies, bound in cloth and five hundred copies in paper; of the report of the superintendent of public works, two thousand five hundred copies; of the report on tolls, trade and tonnage, five hundred copies; of the report of the superintendent of state prisons, one thousand copies bound in cloth and two thousand copies bound in paper; of the report of the state board of charities, fifteen hundred copies; of the report of the state board of health, three thousand copies; of the report of the state board of claims, five hundred copies; of the report of the bureau of labor statistics, five thousand copies, two thousand copies thereof for the use of the legislature; of the report of the civil service commission, one thousand copies; of the report of the agricultural experiment station, fifteen thousand copies, three thousand for the trustees and twelve thousand for the legislature; of the regents' report, one thousand copies; of the state library report, one thousand copies; of the state museum of natural history report, eighteen hundred copies, fifteen hundred for the regents and three hundred for the curator; of the annual report of the railroad commissioners, seven thousand copies, all bound in cloth, four thousand for the use of the legislature and three thousand for the railroad commissioners; of the report of the superintendent of public instruction, fifteen thousand copies, all bound in cloth, to be distributed by that officer as follows: Eleven thousand three hundred copies for the school districts of the state, being one copy for each school district; nine hundred copies to school commissioners and city superintendents of schools; two hundred copies to the state normal and training schools; three hundred copies to academies and high schools; one thousand copies to members and officers of the legislature and state officers; one thousand copies for the use of the state superintendent of public instruction; also three hundred copies printed on forty-four pound calendered paper and bound in leather, for exchange with the superintendents of public instruction of the states and territories, and



## SCHEDULE OF LAWS REPEALED.

Revised Statutes.....Part I, chapter 7.....All.

LAWS OF	Chapter	Section.
1829.....	275.....	All.
1837.....	140.....	All.
1839.....	263.....	All.
1842.....	306.....	All.
1842.....	310.....	2, 3.
1843.....	98.....	All.
1845.....	280.....	All.
1846.....	24.....	All.
1847.....	253.....	All.
1847.....	254.....	All.
1847.....	458.....	All.
1853.....	530.....	All.
1854.....	51.....	All.
1858.....	831.....	All.
1859.....	1.....	All.
1859.....	321.....	All.
1860.....	395.....	All.
1868.....	345.....	All.
1870.....	113.....	All.
1870.....	215.....	All.
1874.....	15.....	All.
1874.....	416.....	All.
1875.....	9.....	All.
1875.....	557.....	All.
1879.....	379.....	All.
1880.....	60.....	All.
1881.....	5.....	All.
1881.....	215.....	All.
1885.....	341.....	All.
1885.....	461.....	All.
1886.....	515.....	All.
1886.....	588.....	All.
1886.....	653.....	All.
1887.....	181.....	All.
1887.....	193.....	All.
1887.....	625.....	All.
1887.....	710.....	All.
1888.....	4.....	All.
1888.....	58.....	All.
1888.....	171.....	All.
1888.....	247.....	All.
1888.....	317.....	All.
1889.....	96.....	All.
1891.....	67.....	All.

## CHAP. 683.

**AN ACT** in relation to executive officers, constituting chapter nine of the general laws.

APPROVED by the Governor May 18, 1892. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

### CHAPTER IX OF THE GENERAL LAWS.

#### THE EXECUTIVE LAW.

**ARTICLE I.** Governor. (§§ 1-7.)

II. Secretary of state. (§§ 20-26.)

III. Comptroller. (§§ 30-32.)

IV. State treasurer. (§§ 40-42.)

V. Attorney-general. (§§ 50-56.)

VI. State engineer. (§§ 60-65.)

VII. Provisions applicable to two or more executive officers. (§§ 70-72.)

VII.\* Miscellaneous officers. (§§ 80-91.)

#### ARTICLE I.

##### GOVERNOR.

**SECTION 1.** Short title and definitions.

2. Acting governor.

3. Private secretary of the governor.

4. Annual expenditures of governor.

5. Executive record.

6. Petitions on behalf of state.

7. Exchange of laws and reports with other states.

**SECTION 1. Short title and definitions.**—This chapter shall be known as the executive law. The office of the governor shall be known as the executive chamber, and his residence, as the executive mansion.

**§ 2. Acting governor.**—Every provision of law relating to the governor shall extend to the lieutenant-governor, and to the president of the senate, respectively, while acting as governor in pursuance of law.

**§ 3. Private secretary of the governor.**—The private secretary of the governor shall be appointed by the governor and shall be paid an annual salary of four thousand dollars.

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\* So in the original.

**§ 4. Annual expenditures of governor.**—There shall be annually appropriated to be expended by the governor,

1. Not exceeding ten thousand five hundred dollars for the employment of such clerks, counsel, stenographers, messengers and door-keepers in the executive chamber as may be necessary ;

2. Not exceeding two thousand dollars for rewards which may be offered by him and necessary expenses in the apprehension of criminals and fugitives from justice.

3. Not exceeding one thousand dollars for compensation, expenses and fees of witnesses and sheriffs upon applications for executive clemency.

4. Not exceeding four thousand dollars for other incidental expenses of the executive chamber and the administration of his office.

5. Not exceeding two thousand dollars for repairs, furniture and incidental expenses of the executive mansion.

**§ 5. Executive records.**—The governor shall cause to be kept in the executive chamber,

1. Journals of the daily transactions of his office ;

2. Registers, containing classified statements of such transactions ;

3. Separate registers containing classified statements of all applications for pardon, commutation or other executive clemency, and of his action thereon ;

4. An account of his official expenses and disbursements, including the incidental expenses of his department, and of all rewards offered by him for the apprehension of criminals, and also the expense incurred by him in sending the reports and copies of the laws of this state to other states.

5. Files of all official records upon which applications for executive clemency are founded ; of statements made by judges to him ; of sentences to death and of the testimony in capital cases ; and of such other papers relating to the transactions of his office, as are deemed by him of sufficient value for preservation.

**§ 6. Petitions on behalf of state.**—The governor of the state may sign any petition required by law for any change or improvement to be made to a street, avenue or public place, on behalf of the state, the people of the state or any other officer, commission, department or trustee for the state where the title of any property fronting upon any street, avenue or public place in a city, is vested in or held by the people of the state, or is vested in or held by any officer, commission or department of or on behalf of the state.

**§ 7. Exchange of laws and reports with other states.**—The

governor shall transmit to the executive of each state in the Union, three copies of the laws of each year and of the reports of the court of appeals, as soon as published, and request a similar transmission to be made to him of the laws and reports of the highest courts of the several states, and when the laws of another state are received, he shall cause one copy thereof to be deposited in the state library, one in the senate chamber and one in the assembly chamber; if but one copy be received, it shall be deposited in the state library. The expenses incurred thereby shall be included in the incidental expenses of the administration of his office.

## ARTICLE II.

### SECRETARY OF STATE.

#### SECTION 20. Salary and expenses.

21. Deputy.

22. Custody of records.

23. Distribution of acts of congress.

24. Supplying statutes to new counties and towns.

25. Legislative manual.

26. Fees.

§ 20. Salary and expenses.—The secretary of state shall be paid an annual salary of five thousand dollars.

There shall be annually appropriated to be expended by the secretary of state :

1. Not exceeding twenty thousand three hundred dollars for the employment of clerks and messengers in his office ;

2. Not exceeding two thousand dollars for furniture, books, binding, blanks, printing and the other necessary incidental expenses of his office.

§ 21. Deputy.—The secretary of state shall appoint a deputy who shall be paid an annual salary of four thousand dollars and who may perform all the duties of the secretary of state, except as commissioner of the canal fund and state canvasser.

§ 22. Custody of records.—The secretary of state shall have the custody of all laws and concurrent resolutions of the legislature, all documents issued under the great seal, all books, records, deeds, parchments, maps, and papers deposited or kept in his office, and shall properly arrange and preserve them.

§ 23. Distribution of acts of congress.—The secretary of state shall distribute the acts of congress received at his office in the same manner as the laws of this state

§ 24. Supplying statutes to new counties and towns.—The

secretary of state shall, at the expense of the state, transmit to the clerk of every new county and town, the latest legislative revision of the general laws of the state, and if practicable, a complete set of the volumes of the session laws, passed since the session of 1830. Whenever the revision of the general laws of the state, or any of the volumes of the session laws passed since 1830, belonging to any town, shall be destroyed by fire, the secretary of state shall, if practicable, replace them at the expense of the state.

§ 25. **Legislative manual.**—The secretary of state, at the expense of the state, shall annually prepare and publish the legislative manual, and a map of the state, exhibiting the route of all railroads and canals that are completed or in course of construction. The manual shall contain the constitutions of the United States and of the state of New York, diagrams of the senate and assembly chambers, and such other information of the nature heretofore published therein, as he may consider useful, and shall be printed and bound in substantially the same style as heretofore. Within two weeks after the commencement of each regular session of the legislature, and earlier if practicable, he shall deliver a copy of the manual and map to each member and officer of the legislature, and to each state officer entitled to the session laws, with the name of each officer or member lettered on the copy of the manual sent to him.

§ 26. **Fees.**—The secretary of state shall collect the following fees:

1. For entering a caveat, twelve and a half cents;
2. Searching the records in his office for any one year and for every other year in which such search is made, six cents;
3. For a copy of any paper or record not required to be certified or otherwise authenticated by him, ten cents per folio;
4. For a certified or exemplified copy of any law, record or paper, fifteen cents per folio;
5. For a certificate under the great seal of the state, one dollar;
6. For recording a certificate, notice or other paper required to be recorded, except as otherwise provided by this section, fifteen cents per folio;
7. For a certificate of the official character of a commissioner of deeds residing in another state or a foreign country, twenty-five cents, and for every other certificate under the seal of his office, one dollar;
8. For a certificate as to the official character of such a commissioner, twenty-five cents;

9. For every patent for lands under water, five dollars, and for every other patent the sum of one dollar for each separate lot embraced in such patent;

10. For each license granted to a peddler, the sum of two dollars;

11. For recording the depositions of resident aliens, fifty cents, and for a certified copy of such deposition, fifty cents;

12. For filing and recording the original certificate of incorporation of a railroad corporation for the construction of a railroad in a foreign country, fifty dollars; for filing the original certificate of every other railroad corporation, twenty-five dollars; for filing the original certificate of any other stock corporation, ten dollars;

13. For filing the certificate of a foreign corporation desiring to do business in the state, ten dollars;

14. For certified copies of the evidence and proceedings of the board of audit, on appeal to the supreme court, to be paid by the appellant on serving notice of appeal, fifteen cents per folio.

No fee shall be collected for copies of records furnished to public officers for use in their official capacity.

## ARTICLE III.

### COMPTROLLER.

#### SECTION-30. Salary and expenses.

81. Deputy.

82. Fees.

§ 30. Salary and expenses.—The comptroller shall be paid an annual salary of six thousand dollars and his reasonable expenses when necessarily absent on public business pertaining to the duties of his office. There shall be annually appropriated to be expended by the comptroller:

1. Not exceeding eight hundred dollars for a messenger;
2. Not exceeding thirty-two thousand dollars for clerk hire;
3. Not exceeding four thousand dollars for furniture, books, binding, blanks, printing and other necessary incidental expenses in his office.

§ 31. Deputy\*.—The comptroller shall appoint a deputy who shall be paid an annual salary of four thousand dollars and who may perform any of the duties of the comptroller, except the drawing of warrants on the treasury, the auditing of public accounts, and the

\* So in the original.

duties of the comptroller as commissioner of the land office, commissioner of the canal fund, and as state canvasser.

§ 32. **Fees.**—The comptroller shall collect the following fees:

1. For copies of all papers and records not required to be certified or otherwise authenticated by him, ten cents per folio;
2. For certified or exemplified copies of all records and papers, fifteen cents per folio;
3. For every certificate under the seal of his office, one dollar;
4. For opening a new account for part of the consideration due on any lot or piece of land, or for a discharge for any such part, where no new account shall have been opened, two dollars;
5. For a deed of land sold for taxes containing the description of but one piece, fifty cents; and for every additional piece described in the same, ten cents.

## ARTICLE IV.

### STATE TREASURER.

#### SECTION 40. Salary and expenses.

##### 41. Undertaking.

##### 42. Deputy.

§ 40. **Salary and expenses.**—The treasurer shall be paid an annual salary of five thousand dollars. There shall be annually appropriated to be expended by the treasurer;

1. Not exceeding twelve thousand dollars for salaries of clerks and messengers in his office;
2. Not exceeding one thousand five hundred dollars for furniture, books, binding, blanks, printing and other necessary incidental expenses in his office.

§ 41. **Undertaking.**—The treasurer shall give an official undertaking in the sum of fifty thousand dollars, approved by the president of the senate, speaker of the assembly and comptroller. After the appointment and qualification of his successor, upon filing in the office of the secretary of state a certificate from the committee who shall have examined and settled his accounts of the preceding year, certifying that such accounts are regularly stated and balanced, and that the balance, if any, is actually in the treasury, or deposited as required by law, such undertaking shall be delivered to him for cancellation.

§ 42. **Deputy.**—The treasurer shall appoint a deputy, for whose conduct he shall be responsible, who shall be paid an annual salary



of four thousand dollars. Such deputy may perform any of the duties of the treasurer, except the signing of checks, and the duties of the treasurer as commissioner of the land office, commissioner of the canal fund, and state canvasser.

## ARTICLE V.

### ATTORNEY-GENERAL.

#### SECTION 50. Salary and expenses.

51. Deputies.

52. General duties.

53. Costs recovered.

54. Register.

55. Additional counsel.

56. Annual report.

§ 50. Salary and expenses.—The attorney-general shall be paid an annual salary of five thousand dollars, and the additional sum of one thousand six hundred dollars in lieu and in full of all his personal expenses and disbursements. There shall be annually appropriated, to be expended by the attorney-general:

1. Not exceeding seventeen thousand two hundred dollars for the employment of clerks, stenographers and messengers;

2. Not exceeding seven hundred and fifty dollars for furniture, books, binding, blanks, printing and other incidental necessary expenses of his office;

3. Not exceeding two thousand dollars for costs of actions and proceedings, fees of sheriffs and compensation of witnesses.

§ 51. Deputies.—The attorney-general may appoint two deputies, to be designated first and second, each of whom shall receive an annual salary of four thousand dollars, and the additional sum of one thousand dollars in lieu and in full of all personal expenses and disbursements. The attorney-general may appoint such other deputies as he may deem necessary and fix their compensation.

§ 52. General duties.—The attorney-general shall:

1. Prosecute and defend all actions and proceedings in which the state is interested;

2. Whenever required by the governor or a justice of the supreme court, attend the courts of oyer and terminer for the purpose of managing and conducting a criminal action or proceeding therein;

3. Upon the request of the governor, secretary of state, comptroller, treasurer, or state engineer and surveyor, prosecute every person charged by either of them with the commission of an indict-

able offense in violation of the laws, which such officer is specially required to execute, or in relation to matters connected with his department;

4. Cause all persons indicted for corrupting or attempting to corrupt any member or member-elect of the legislature, or any commissioner of the land office, to be brought to trial;

5. When required by the comptroller or the state engineer, prepare proper drafts for contracts, obligations, and other instruments for the use of the state;

6. Upon receipt thereof, pay into the treasury all moneys received by him for debts due or penalties forfeited to the people of the state.

§ 53. **Costs recovered.**—Costs recovered by the attorney-general may be applied by him in payment of the expenses incurred by him in the action or proceeding in which they are received, or of any expenditure which he is authorized to incur not otherwise provided for. He shall, at the close of each fiscal year, render to the comptroller an account of such costs received, with vouchers of such expenditures.

§ 54. **Register.**—The attorney-general shall keep a register of all actions and proceedings prosecuted or defended by him, and of all proceedings in relation thereto, and shall deliver the same to his successor.

§ 55. **Additional counsel.**—The governor or attorney-general may employ such additional counsel as may be necessary to assist the attorney-general in the prosecution or defense of actions or proceedings in which the state is interested. Such counsel shall, upon the certificates of the governor, be paid from the treasury a reasonable fee, or may be paid by the attorney-general out of the costs recovered by him.

§ 56. **Annual report.**—The attorney general shall annually, on or before the first day of February, report to the legislature:

1. As to all moneys belonging to the state received by him during the preceding year by way of costs, damages or otherwise;

2. The title and subject-matter of all actions on appeal, pending and undetermined, and the condition thereof at the date of such report;

3. What actions, if any, have been brought by him during the year for the recovery of real property claimed to be owned by the state, and the condition of such actions at the date of such report;

4. The title of every action brought by him during the year against a corporation to vacate its charter or annual\* its existence, and the condition thereof at the date of such report, with a brief statement of the cause for which such action was brought; and the proceedings during such year in such actions previously brought.

5. Copies of his official opinions during the preceding year, which are deemed by him of general public interest.

## ARTICLE VI.

### STATE ENGINEER.

#### SECTION 60. Salary and expenses.

61. Deputy.

62. General duties.

63. Documents may be inspected by public.

64. Use of official seal.

65. Fees.

§ 60. Salary and expenses.—The state engineer and surveyor may be known as the state engineer, and shall be paid an annual salary of five thousand dollars, and shall be authorized to incur expenditures to be paid by the state;

1. Not exceeding nine thousand two hundred dollars for the employment of clerks, stenographers and messengers in his office;

2. Not exceeding two thousand dollars for furniture, books, binding, blanks, printing and other necessary incidental expenses of his office.

§ 61. Deputy.—The state engineer shall appoint a deputy, who shall be paid an annual salary of four thousand dollars, and who may perform all the duties of the state engineer and surveyor, except as commissioner, trustee or member of any board

§ 62. General duties.—The state engineer shall,

1. Superintend the surveys and sales of lands belonging to the state, in the manner required by law and according to the directions of the commissioners of the land office, when such directions shall have been given;

2. Retain in his office a map of the state, and delineate thereon all changes in the bounds thereof, or of the counties therein;

3. Collect and preserve all maps, plans, drawings, field notes, levels and surveys of every description made for the use of the state, and all engineering instruments belonging to the state;

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\* So in the original.

4. Pay into the treasury all moneys received by him in behalf of the state;

5. Appoint and fix the compensation of such engineers and other assistants as may be necessary to execute such duties as shall be confided to him by statute.

§ 63. Documents may be inspected by public.—The maps, drawings and other documents deposited in the office of the state engineer shall be open for inspection of the public at all reasonable hours, but shall not be removed or taken from the office.

§ 64. Use of official seal.—All certificates of the sale of state lands, copies of maps, surveys, field books, official papers, reports or records certified by the state engineer or his deputy, shall be sealed with the seal of his office.

§ 65. Fees.—The state engineer shall collect the following fees:

1. For filing every paper, six cents;
2. For all original drafts, twenty-five cents;
3. For drawing original papers, ten cents per folio;
4. For recording papers, ten cents per folio;
5. For copies of papers on file, ten cents per folio;
6. For every search, ten cents;
7. For copies of maps, the sum usually charged therefor;
8. For surveys, at the rate of three dollars per day for the surveyor, exclusive of the reasonable expenses for the hire of men, horses, and for provisions.

## ARTICLE VII.

### PROVISIONS APPLICABLE TO TWO OR MORE EXECUTIVE OFFICERS.

SECTION 70. Special reports to legislature.

71. Quarterly account of fees.

72. Public printing other than legislative.

§ 70. Special reports to legislature.—The secretary of state, the comptroller, the treasurer, the attorney-general and the state engineer shall report upon all matters referred to them by the legislature or by either house.

§ 71. Quarterly accounts of fees.—The secretary of state, the comptroller and the state engineer shall, on the first days of January, April, July and October, file with the treasurer an account in writing of all fees by them respectively received during the preceding quarter, and pay the amount thereof into the treasury.

§ 72. Public printing other than legislative.—The public

printing payable by the state, other than legislative printing, shall be done as follows: On or before the first day of April, 1892, and of each alternate year thereafter, the secretary of state and comptroller shall give at least twenty days notice in two newspapers published in each senatorial district of the state, that on or before a day specified therein they will receive sealed proposals for the public printing, other than legislative, for two years, the work to be performed in the same style of type, paper and execution as heretofore, and that they will receive separate bids for the printing to be done for the public offices or any portion thereof. To every such bid there shall be annexed the guaranty of a guarantor of sufficient ability, that the person making such bid will, if the same is accepted, enter into a contract according to the terms thereof, and give the security required within the time specified in the notice; and to every such guaranty there shall be annexed a certificate of the county judge of the county where the guarantor resides, that the guarantor is a freeholder and able to make good his guaranty. At the expiration of such time they shall open the proposals and enter into a contract with the person or firm who shall make the lowest bid and shall give security approved by them for the faithful performance of his contract.

## ARTICLE VIII.

### MISCELLANEOUS OFFICERS.

**SECTION 80.** Appointment and salary of state superintendent of weights and measures.

- 81. Appointment and number of notaries public.
- 82. Notary public acting in more than one county.
- 83. Oath and fees of notary public.
- 84. Fees of county clerks in relation to notaries public.
- 85. Powers and duties of notaries public.
- 86. Commissioners of deeds within the state.
- 87. Commissioners of deeds in other states and foreign countries.
- 88. Powers of such commissioners.
- 89. Fees of such commissioners.
- 90. Laws repealed.
- 91. When to take effect.

§ 80. Appointment and salary of state superintendent of weights and measures.—Upon the occurrence of a vacancy by expiration of term or otherwise in the office of the state superintendent of weights and measures for the state, a scientific man of sufficient learning and mechanical tact to perform the duties of the office shall be appointed such superintendent by the governor, lieutenant gov-

ernor and secretary of state or any two of them at a meeting called for that purpose by the secretary of state. Such superintendent shall receive a salary of three hundred dollars a year.

§ 81. **Appointment and number of notaries public.**—The term of office of each notary public hereafter appointed, unless to fill a vacancy, shall be two years from the thirtieth day of March of the year in which he shall be appointed, and the governor shall appoint, by and with the advice and consent of the senate, such number of notaries public in and for the several counties of the state as may be necessary, but the total number of notaries public in office at any one time residing in the following described localities shall not exceed the numbers specified for each, as follows, to wit:

1. The city and county of New York, one for each one thousand of population as shown at any time by the latest preceding federal or state enumeration; also one for each bank located in such city and county applying therefor; and two thousand seven hundred and ten additional.

2. Each assembly district constituting an entire county or two counties, three for each two thousand of population by such enumeration; one for each bank located in such district, and eighty-two additional. Each assembly district constituting a portion of a county other than New York, three for each two thousand of population by such enumeration; one for each bank located in the district and applying therefor, and sixty-two additional, except that in each assembly district in the county of Westchester, such additional number shall be seventy-two instead of sixty-two.

§ 82. **Notary public acting in more than one county.**—A notary public appointed for the county of Kings, Queens, Richmond, Westchester, Putnam, Suffolk, Rockland, Orange and Dutchess or for the city and county of New York, upon filing a certified copy of his appointment, together with the certificate of the clerk of the county for which he was appointed, and his autograph signature, in the clerk's office of any of such counties; or any notary appointed for any county of the state, upon filing a certified copy of his appointment, together with the certificate of the clerk of the county for which he was appointed, and his autograph signature, in the clerk's office of an adjoining county, may exercise all the functions of his office in the county in which such certified copy is filed, and also in the county in which he resides and for which he was appointed. The county clerk of a county in whose office any notary has filed a copy of his appointment, a certificate of his hav-

ing qualified and his autograph signature, shall when so requested subjoin to any certificate or proof or\* acknowledgment signed by such notary, a certificate under his hand and seal stating that such notary public has filed a certified copy of his appointment with his autograph signature in his office, and was at the time of taking such proof or acknowledgment duly authorized to take the same; that he is well acquainted with the hand writing of such notary, and believes that the signature to such proof or acknowledgment is genuine.

§ 83. Oath and fees of notary public.— At the time of filing and subscribing his oath of office, each person appointed notary public shall pay to the county clerk a fee hereinafter specified, nor shall the county clerk administer or file such oath until such fee is paid. Each notary residing in any city having a population of more than fifty thousand and less than three hundred thousand, the sum of five dollars; each notary residing in any county having a population of more than three hundred thousand, the sum of ten dollars; each notary other than as above specified, the sum of two and one-half dollars. The clerk of the city and county of New York shall collect from each notary public appointed for any other county (except the county of Kings), who shall file his notarial certificate in such clerk's office, the sum of seven and one-half dollars. But any notary who shall have been appointed during the recess of the legislature, and who shall have duly qualified under such recess appointment, shall not be required to pay any second fee upon qualifying under his next reappointment when confirmed by the senate.

§ 84. Fees of county clerks in relation to notaries public.— Except as provided in this section, the county clerk of each county shall, on or before the first day of June in each year, pay over to the state treasurer all fees collected in pursuance of the last section. The county clerk of each county, who is not a salaried officer, may retain from the amount so collected the sum of fifty cents from each notary public who shall duly qualify, as compensation for notifying such notaries public of their appointment to office, which notice shall be transmitted in a sealed envelope bearing the printed address of the county clerk, for administering the oath of office, for giving notice to the governor of such notaries as have taken the oath of office or have neglected to take such oath, and for giving notice of vacancies created for any cause in such offices. In counties of less than one hundred and fifty thousand inhabitants, where the office of the county clerk is salaried, a like sum shall be

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\* So in the original.



retained for like services, which sum shall be paid by the county clerk to the officer to whom it is provided that fees of the county clerk shall be paid. In counties having over one hundred and fifty thousand inhabitants, where the office of county clerk is salaried, the county clerk shall appoint an officer to be known as notarial clerk, whose duty it shall be to enter the names of notaries appointed in the book kept for that purpose, to make out certificates of appointment, and discharge such other duties connected with the notarial department of the county clerk's office, and such other duties as the county clerk or his deputy shall designate. He shall receive an annual salary of one thousand five hundred dollars, payable monthly, to be deducted by the county clerk out of the moneys directed to be paid to the state treasurer by this section.

§ 85. Powers and duties of notary public.—A notary public has authority :

1. Anywhere within the state, to demand acceptance and payment of foreign and inland bills of exchange, and of promissory notes, and may protest for the non-acceptance or non-payment thereof, to exercise such powers and duties as by the law of nations and according to commercial usage, or by the laws of any other government, state or country, may be performed by notaries.

2. In the county in and for which he shall have been appointed, to administer oaths and affirmations, to take affidavits and certify the same, and to take and certify the acknowledgment and proof of deeds and other written instruments.

For any misconduct in the performance of any such powers, a notary public shall be liable to the party injured for all damages sustained by him. A notary public shall not, directly or indirectly, demand or receive for the protest for the non-payment of any note, or for the non-acceptance or non-payment of any bill of exchange, check or draft, and giving the requisite notices and certificates of such protest, including his notarial seal, if affixed thereto, any greater fee or reward than seventy-five cents for such protest, and ten cents for each notice, not exceeding five on any bill or note. He shall, except as otherwise provided, when requested, affix his seal to such protest free of expense.

§ 86. Commissioners of deeds within the state.—Commissioners of deeds in the cities of this state shall be appointed by the common councils of such cities respectively, and shall hold office for the term of two years from the date of their appointment, and until others are appointed in their places. A vacancy occurring dur-

ing the term for which any commissioner shall be appointed, shall be filled by the common council. The common councils of the several cities of this state shall, on or before the first day of January, 1893, and at the end of every two years thereafter, by resolution of the board, determine the number of commissioners of deeds to be appointed for such cities respectively. This section shall not apply in the city of New York. Commissioners of deeds in cities of this state shall have power to take proof and acknowledgment of all written instruments.

§ 87. Commissioners of deeds in other states and foreign countries.—The governor may appoint not to exceed fifteen commissioners of deeds in a city or county of any state of the United States, and not to exceed ten such commissioners in a city of any foreign country, each of whom shall be a resident of the city or county for which chosen, and shall hold office for the term of four years. Each commissioner, before performing any of the duties or exercising any of the powers of his office, shall take the constitutional oath of office, if appointed for a city or county within the United States, before a justice of the peace or some other magistrate in such city or county; and if for a city in a foreign country, before a person authorized by the laws of this state to administer an oath in such country, or before a clerk or judge of a court of record in such foreign country; and shall cause to be prepared an official seal on which shall be designated his name, the words “commissioner of deeds for the state of New York,” and the name of the city or county, and the state or country for which appointed; and shall file a clear impression of such seal, his written signature and his oath, certified by the officer before whom it was taken, in the office of the secretary of state.

The secretary of state upon receipt of such impression, signature and oath, shall forward to such commissioner instructions and forms, and a copy of sections eighty-seven, eighty-eight and eighty-nine of this chapter.

§ 88. Powers of such commissioners.—Every such commissioner shall have authority, within the city or county in which he shall reside at the time of his appointment, and in the manner in which such acts are performed by authorized officers within the state:

1. To take the acknowledgment or proof of the execution of a written instrument, except a bill of exchange, promissory note or will, to be read in evidence or recorded in this state;

2. To administer oaths;

3. If appointed for a foreign country, to certify to the existence of a patent, record or other document recorded in a public office or under official custody in such foreign country, and to the correctness of a copy of such patent, record or document, or to the correctness of a copy of a certified copy of such a patent, record or other document, which has been certified according to the form in use in such foreign country.

A written instrument so acknowledged or proved, an oath so administered, or a copy or copy of a certified copy of such a patent, record or other document, may be read in evidence or recorded within this state, the same as if taken, administered or certified within the state before an officer authorized to take the acknowledgment or proof of a written instrument, to administer oaths, or to certify to the correctness of a public record, if there shall be annexed or subjoined thereto, or indorsed thereon, a certificate of the commissioner before whom such acknowledgment or proof was taken, by whom the oath was administered, or by whom the correctness of such copy is certified, under his hand and official seal, specifying, if for another state, the day on which and the city or town in which the acknowledgment or proof was taken, or the oath administered (without which specification when required the certificate shall be void); and authenticated by the certificate of the secretary of state, annexed or subjoined to the certificate of such commissioner, that such commissioner was at the time of taking such acknowledgment or proof of administering such oath, or of certifying to such patent, record or document, or copy thereof duly authorized therefor, that he is acquainted with the handwriting of such commissioner, or has compared the signature to the certificate with the signature of such commissioner deposited in his office, that he has compared the impression of the seal affixed to such certificate with the impression of the seal of such commissioner deposited in his office, and that he verily believes the signature and the impression of the seal upon such certificate to be genuine.

The certificate of a commissioner as to the correctness of a copy of a certified copy of a patent, record or other document as provided by this section, shall be presumptive evidence that it was certified according to the form in use in such foreign country.

§ 89. Fees of such commissioners.—The fees of such commissioners shall be as follows:

1. If appointed for another state, not to exceed four times the

amount allowed by the laws of such state for like services, and not to exceed in any case one dollar for taking the proof or acknowledgment of a written instrument, or administering an oath ;

2. If appointed for Great Britain or Ireland, for administering or certifying an oath, one shilling sterling, and for taking the proof or acknowledgment of a written instrument, or for certifying to the existence or correctness of a copy of a patent, record or document, four shillings sterling ;

3. If appointed for France or any other foreign country, for administering and certifying an oath, one franc and twenty-five centimes, and for taking the proof or acknowledgment of a written instrument, or for certifying to the existence or correctness of a copy of a patent, record or document, five francs.

§ 90. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 91. When to take effect.—This chapter shall take effect on October 1, 1892.

SCHEDULE OF LAWS REPEALED.

Revised Statutes . . . .	Part I, chap. VIII . . . . .	All except titles III and IV.
Revised Statutes . . . .	Part I, chap. IX, title I . . . .	All.
Revised Statutes . . . .	Part III, chap. III, title II.	Article II, sections 41, 44, 45, 48.

LAWS OF	Chapter	Sections
1835 . . . . .	52 . . . . .	All.
1836 . . . . .	586 . . . . .	All.
1837 . . . . .	476 . . . . .	All.
1839 . . . . .	23 . . . . .	All.
1840 . . . . .	259 . . . . .	All.
1841 . . . . .	218 . . . . .	All.
1841 . . . . .	274 . . . . .	All.
1842 . . . . .	220 . . . . .	All.
1844 . . . . .	176 . . . . .	All.
1846 . . . . .	147 . . . . .	All.
1847 . . . . .	350 . . . . .	All.
1848 . . . . .	75 . . . . .	All.
1848 . . . . .	161 . . . . .	All.
1848 . . . . .	357 . . . . .	All.
1850 . . . . .	270 . . . . .	All.
1851 . . . . .	134 . . . . .	16, 17, 18, 19.
1857 . . . . .	633 . . . . .	All.
1857 . . . . .	788 . . . . .	All.

## THE EXECUTIVE LAW.

Ch. 9, G. L.

LAWS OF	Chapter	Sections
1859.....	360.....	All.
1859.....	437.....	All.
1862.....	21.....	All.
1863.....	508.....	All.
1864.....	29.....	All.
1865.....	356.....	All.
1865.....	539.....	All.
1867.....	420.....	All.
1868.....	479.....	All.
1869.....	317.....	All.
1869.....	448.....	All.
1870.....	660.....	All.
1871.....	8.....	All.
1871.....	167.....	All.
1872.....	703.....	All.
1873.....	643.....	All.
1873.....	807.....	All.
1874.....	100.....	All.
1875.....	87.....	All.
1875.....	136.....	All.
1875.....	227.....	All.
1876.....	58.....	All.
1876.....	130.....	All.
1878.....	18.....	All.
1878.....	40.....	All.
1878.....	301.....	All.
1880.....	86.....	All.
1880.....	115.....	All.
1880.....	160.....	All.
1880.....	234.....	All.
1882.....	156.....	All.
1883.....	140.....	All.
1883.....	233.....	All.
1884.....	66.....	All.
1884.....	270.....	All.
1885.....	61.....	All.
1885.....	63.....	All.
1885.....	252.....	All.
1886.....	230.....	All.
1886.....	359.....	All.
1886.....	448.....	All.
1887.....	516.....	All.
1888.....	542.....	All.
1889.....	200.....	All.
1890.....	260.....	All.

## CHAP. 684.

AN ACT relating to salt springs, constituting chapter thirteen of the general laws.

APPROVED by the Governor May 18, 1892.    Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows ·*

### CHAPTER XIII OF THE GENERAL LAWS.

#### THE SALT SPRINGS LAW.

- SECTION**
1. Short title.
  2. Definitions.
  3. What salt spring lands can be sold.
  4. Duty on salt.
  5. Onondaga manufacturing districts.
  6. Superintendent of Onondaga salt springs.
  7. Powers of superintendent.
  8. Further powers and duties of superintendent.
  9. Rules and regulations.
  10. Penalties; rules and penalties to be posted.
  11. Habitual neglect to comply with rules.
  12. Officers not to be concerned in manufacturing.
  13. Deputies and inspectors.
  14. Inspection of salt.
  15. Persons who may execute process.
  16. By whom inspection shall be made.
  17. Examination of kettles.
  18. Damaged salt; penalties.
  19. Deleterious ingredients prohibited.
  20. Bittern pans.
  21. Salt in barrels.
  22. Quantity of salt in barrels.
  23. Name of manufacturer to be branded on package.
  24. Boat sunk in canal.
  25. Duplicate inspection bills.
  26. Receiver's duties.
  27. Delivery of bills to the inspector.
  28. Wells; pumps.
  29. Lines of aqueducts to be kept in repair.
  30. Ascertainment of quantity of water.
  31. Numerical list of salt blocks to be kept.
  32. Distribution of brine.
  33. Cisterns; repair of buildings.
  34. Unauthorized communication.
  35. Discharge of laborers for neglect.

**SECTION 86. Leases.**

- 87. Vacant lands.
- 88. Earthworks.
- 89. When salt works may be erected on state lands.
- 40. Lands on west side of north side cut.
- 41. Charges against the state; estimates to be made out.
- 42. Leases by the superintendent of certain lots.
- 43. Sale of fine salt lots.
- 44. Purchase of salt land; payments therefor.
- 45. Sale of coarse salt lands.
- 46. Damages to be appraised.
- 47. Lease of salt lands; maps to be made and filed.
- 48. Exchange authorized.
- 49. Distribution of copies of law.
- 50. Laws repealed.
- 51. When to take effect.

**SECTION 1. Short title.**—This chapter shall be known as the salt springs law.

**§ 2. Definitions.**—The term, Onondaga reservation, when used in this chapter, shall include all the lands situate in the county of Onondaga containing salt springs or used for the manufacture of salt, or owned by the people of the state and adjacent thereto or connected therewith, or set apart for such purposes by the commissioners of the land office. The term, manufacturer, when used in this chapter, shall include every corporation, company or individual having the direction, charge or control of a manufactory whether as owner, proprietor or lessee thereof.

**§ 3. What salt spring lands can be sold.**—The salt springs belonging to this state with the salt water existing on the Onondaga reservation, and the lands contiguous thereto which are necessary and convenient to the use of the salt springs and the public works thereon, shall forever remain the property of the state. Lands reserved or used for the manufacture of salt may be sold as in this chapter provided, under the direction of the commissioners of the land office, with a view to the exchange of the same for other lands more conveniently located or in large quantity, in which the proceeds of the lands so sold shall be invested; but the aggregate quantity of lands appropriated to the manufacture of salt shall not be diminished by such sale and purchase.

**§ 4. Duty on salt.**—A duty of one cent per bushel of fifty-six bounds\*, shall be collected and paid to the treasurer upon all salt manufactured from the salt springs upon the Onondaga reservation in the county of Onondaga.

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\* So in the original.



§ 5. **Onondaga manufacturing districts.**—The Onondaga reservation shall be divided into such manufacturing districts as the superintendent may prescribe; and he may establish therein such public offices for the transaction of the business connected with the manufacture of salt as he may deem convenient. Such offices shall be kept open every day except Sundays and holidays from sunrise to sunset and during such hours any person may examine the books of entry kept by the superintendent.

§ 6. **Superintendent of Onondaga salt springs.**—There shall continue to be an officer known as the superintendent of the Onondaga salt springs who shall be appointed by the governor and hold office for the term of three years and receive an annual salary of fifteen hundred dollars. Before entering upon the duties of his office and within thirty days after notice of his appointment, he shall give an official undertaking in the sum of thirty thousand dollars with at least five sufficient sureties to be approved by and filed in the office of the comptroller.

§ 7. **Powers of superintendent.**—Such superintendent shall:

1. Have the possession, government and management of all lands, wood, timber, trees, buildings, erections, pumps and machinery of every kind, and of all water courses, conduits, wells, aqueducts, springs and other property belonging to the state on the Onondaga reservation, and the Montezuma salt springs.

2. Superintend and have charge of the salt springs and of the manufacture and inspection of salt and regulate and control the delivery of salt water to the salt manufacturers.

3. Daily examine or cause to be examined the cisterns attached to the several manufactories in order to discover any leaks or waste of salt water therefrom or from the logs or conduits leading the water to them and to discover any leak or waste of salt water, either by negligence or design whether in the cisterns, logs or conduits or in the use of the water in any manufactory, or in letting the same into the cisterns, or in any other manner; and shall order the owner or other person occupying such manufactory or his agents or servants who may be present to immediately stop such leak or waste.

4. Cause any person wrongfully possessed of any land or property on the Onondaga reservation or the Montezuma salt springs to be removed therefrom and take possession of the same and may sue in his name of office for the recovery of damages for any injury to such lands or property according to the nature of such injury.

5. Keep in each of his offices regular books of entry in which all of his accounts and transactions shall be entered.

6. Provide suitable books of entry, blank books, blank inspection bills, returns, forms and other stationery for the use of himself and his deputies in the performance of their official duties.

7. Receive all moneys payable to the state for the duties, rents, fines or penalties specified in this chapter or arising from the salt springs or property of the state connected with the salt manufacture.

8. Deposit each week to the credit of the state treasurer in such bank or banks as may be designated by the comptroller all moneys received by him as superintendent and transmit every Monday to the comptroller a statement showing the amount of the revenues collected, received and deposited during the preceding week.

9. Forward a statement to the comptroller on the first Monday in each month exhibiting the whole amount of revenue collected during the preceding month, and the amount in each week, with a transcript of the receiver's books in each of the manufacturing districts.

10. Prosecute in the name of the state all persons who shall knowingly trespass upon or injure any of the lands or property belonging to the state or who shall willfully damage any of the machinery, erections, fixtures or other property of the state and for the recovery of all such sums forfeited to the state.

11. Make a report annually to the comptroller on September thirtieth or within ten days thereafter, stating the quantity of salt inspected during the previous year, the amount of revenues accruing thereon and from other sources, the expenditures made by the superintendent, and the amount which in his judgment will be necessary for the support of the salt springs for the ensuing year.

12. Make a report annually to the legislature on or before January fifteenth, of his doings during the preceding year embracing such information in regard to the manufacture of salt and the situation of the public works and submitting such recommendations for their further improvement and extension as he shall deem necessary and proper. If the superintendent neglect to make the monthly returns required by this section or to make or transmit the certificate of such deposits to the comptroller, the comptroller shall order the superintendent's bond to be put in suit for the recovery of any moneys which may be in his hands belonging to the state and such neglect or omission of duty shall be deemed cause for the removal of such superintendent by the governor.

§ 8. Further powers and duties of superintendent. — The superintendent may :

1. Lease for not more than three years any of the lots or lands of this state reserved for the manufacture of salt and not lawfully held or occupied for that purpose; but unoccupied grounds in the immediate vicinity of a pump-house or other public works shall hereafter be reserved for the use and convenience of the state, and no lands so leased shall be underlet or used by the lessee, and if so underlet or used the lessee shall forfeit his interest in such lands.

2. Take possession of and occupy the lands and tenements or any spring or well of salt water belonging to any person or association or in his or its possession by virtue of any lease or grant thereof, given or to be given under any law of this state, which may be necessary for the construction or erection of any reservoir, aqueduct, pump, pump-house or other buildings therewith connected, or for providing and furnishing the necessary supply of salt water as directed by this chapter or for procuring convenient access thereto, and the owner of property so taken shall be paid the reasonable value thereof to be fixed by agreement between him and the superintendent; but in case of a well, not to exceed its original cost; and if the superintendent is unable to agree with the owner for the purchase thereof, he may acquire title thereto in the name of the state by condemnation. The superintendent shall pay the amount of damages so agreed upon or awarded, and the expenses of the appraisers, if any be employed, and charge the same in his account.

3. Administer oaths to his deputies, foremen and employes in regard to returns of check-rolls and other matters relating to their duties when he shall deem it necessary.

4. Require the officers appointed by him to perform such duties and services in behalf of the state as he may consider appropriate and necessary and remove them or either of them from office.

5. Establish and from time to time alter the boundaries of the inspection districts so as to allow of the inspection of salt at the offices most convenient to the officers in charge and to the owners of the salt works.

**§ 9. Rules and regulations.**—The superintendent shall annually, in the month of April, adopt rules and regulations for the guidance and direction of the salt manufacturers for the ensuing year, and may also, from time to time, establish such rules and regulations, not inconsistent with law, as he may deem expedient respecting:

1. The manufacture and inspection of salt and the collection of duties thereon.

2. The manner and order of receiving salt water from the state reservoirs and aqueducts, the mode of conducting it to the respective manufactories and erections and securing it from waste and loss.

3. The examination of the several salt works and manufactories by his deputies to determine whether the provisions of the law are properly complied with.

4. The loading of salt in bulk, or otherwise, into boats to be transported upon the canals, or the shipment of salt by railway, or otherwise, to be conveyed to market.

5. Such other matters as shall tend to the more perfect execution of the provisions of this chapter. Such rules and regulations shall take effect upon the expiration of one week from the time they are made and published, and shall be in force until they are revoked or others are established in their stead.

§ 10. **Penalties; rules and penalties to be posted.**—The superintendent may prescribe specific penalties not exceeding one hundred dollars for each offense for any violation of the rules and regulations established by him and recover the same in the name of the state with costs, and shall stop all communication between any salt block or manufactory and the state reservoir, if the person in charge of such block or manufactory shall refuse to comply with the provisions of law or the rules and regulations of the superintendent so that no salt water shall come to such block or manufactory until such provisions are complied with. Such rules and regulations and the several penalties prescribed thereby and by law, shall be printed and posted conspicuously in the several offices of the superintendent, in all the fine salt manufactories and in the store-houses for coarse salt, and in the mills for grinding salt, and in such other places as shall be deemed expedient for the information of the public.

§ 11. **Habitual neglect to comply with rules.**—The superintendent shall suspend for such length of time as he may deem proper, not exceeding three months at any one time, the right of any salt manufacturer to carry on his manufactory if such manufacturer shall habitually neglect the rules and regulations prescribed by the superintendent or by law, or shall be in the habit of making bad salt, or if the quantity of salt inspected from his manufactory shall be found materially less than is usually produced from a manufactory of the same capacity of kettles for the time it was actually in operation.

§ 12. **Officers not to be concerned in manufacturing.**—No

officer or employe connected with the salt springs shall be in any way concerned in the manufacture or sale of salt or have any interest whatever, directly or indirectly, in any salt manufactory or erection for the manufacture of salt, or in the profits of any such manufactory, or in any labor or materials, or contracts for doing any work on the salt reservations or which may be done under the provisions of this chapter.

§ 13. **Deputies and inspectors.**—The superintendent may by a written order filed in the county clerk's office of Onondaga county appoint the following deputies and assistants:

One deputy superintendent, who shall be receiver and chief clerk and in case of the death, removal or resignation of the superintendent, possess his powers and discharge his duties until another shall be appointed; one chief engineer and one chief inspector of salt; each of whom shall receive an annual salary of twelve hundred dollars.

Three inspectors of salt, who shall each receive an annual salary of six hundred dollars. Three block inspectors, each of whom shall receive a salary of sixty dollars a month for not more than eight months in each year; two receivers, who shall each receive an annual salary of eight hundred and forty dollars; one receiver who shall receive an annual salary of five hundred and forty dollars; one overseer of pumps who shall receive an annual salary of six hundred dollars; three overseers of pumps who shall each receive the sum of fifty dollars a month for not more than eight months in each year; one superintendent of aqueducts and reservoirs who shall receive an annual salary of six hundred and sixty dollars, three such superintendents who shall each receive an annual salary of four hundred and eighty dollars; one chief inspector of barrels who shall receive an annual salary of eight hundred and forty dollars; three assistant barrel inspectors who shall each receive a salary of fifty dollars a month while employed; two assistant barrel inspectors who shall each receive fifty dollars a month for such time as their services are necessary; and such additional assistants, pumpers, inspectors, weighers and overseers as may be necessary during the business part of the season who shall each receive not more than fifty dollars a month for not more than eight months in a year.

Before entering upon the duties of his office each person appointed by the superintendent shall execute and deliver, to him an official undertaking in an amount with sufficient sureties, for the faithful performance of his duties and for the faithful and punctual payment

to such superintendent of all moneys which such person shall from time to time receive, and as often or at such stated periods as may be required of him.

A list of the names of all officers appointed by the superintendent shall be kept conspicuously posted in each of the receiver's offices in the several districts.

§ 14. **Inspection of salt.**—The superintendent and his deputies charged with the inspection of salt shall carefully and constantly superintend its manufacture in the several fine and coarse salt manufactories, and examine and inspect such salt in the various stages of its production in the kettles, vats, bins and store-houses; and require inferior or impure salt to be separated from salt suitable for passing inspection, and to be either destroyed or returned to the cisterns to be dissolved or deposited in some proper place and disposed of as salt of second quality. No salt shall pass as good unless it is manufactured as directed by this chapter and by the rules and regulations of the superintendent, and is well made, free from dirt, filth, stones, admixtures of lime, ashes of wood, and other substances injurious thereto, fully drained from pickle and the bitters properly extracted therefrom. The superintendent shall allow salt made from the brine of the springs to be manufactured without extracting the bitters or impurities therefrom, provided all such salt, whether shipped loose or in bags, barrels or packages, shall be designated and branded as impure and agricultural salt.

Salt shall not be packed in casks, barrels, sacks or other vessels, or taken from the salt-house in bulk or otherwise, until it has remained in the bin or store-house at least fourteen days and the inspector shall have determined upon an actual examination that it is sufficiently drained of pickle and fit for inspection. No inspection shall be made after sundown or before sunrise, and no salt manufacturer shall retail or deliver any uninspected salt after sundown or before sunrise.

No person shall remove or attempt to remove from the reservation or from any salt manufactory, store-house or other place of deposit any salt before it shall have been inspected and the duties paid thereon, with intent to evade the inspection thereof or the payment of the duties thereon.

Every person so removing or attempting to remove any salt shall forfeit to the state such salt, with the bag, barrel or other vessel in which it shall be contained, and five dollars for every bushel so removed or attempted to be removed; and the boat, vessel, cart, wagon, sled or other vehicle in or by which the same shall be removed



or attempted to be removed, with the apparel, tackle and team belonging thereto, shall be taken to be the property of such person and be liable to the payment of such penalty.

**§ 15. Persons who may execute process.**—The superintendent or any of his deputies may enter every barn, store-house, inclosure or other place of deposit which he may suspect to contain salt so removed or attempted to be removed and every boat, vessel, cart, wagon, sled or other vehicle in or by which such salt shall have been removed or attempted to be removed, and seize such salt, with the bag, barrel or other vessel containing it, and sell the same at public auction for the use of the people of the state after giving six days notice of the time and place of sale.

The officer or person making such seizure may also seize such boat, vessel, cart, wagon, sled or other vehicle with the tackle, apparel and the team belonging thereto and retain the same until the determination of any suit which may be brought for the penalty above imposed.

The owner of the property so seized may obtain possession thereof by giving a bond to the superintendent with sureties to be approved by him for the return of such property to the officer if judgment for the plaintiff shall be recovered in the suit brought for the forfeiture incurred, and to secure which such seizure shall have been made.

**§ 16. By whom inspection shall be made.**—Persons desiring to have salt inspected shall apply to the inspector in the district where such salt shall be, who shall thereupon actually examine it in the bag, barrel or vessel in which it is contained. In order to facilitate its examination, the person offering it shall unhead or bore the barrel or open the bag or other vessel containing it as directed by the inspector so as to expose the salt to his touch, view and examination, and shall in all cases provide the necessary assistance to lift the salt while the inspector weighs or measures it.

**§ 17. Examination of kettels.\***—The inspectors shall daily examine in their respective districts all kettles used in the manufacture of fine salt and shall require their removal if damaged or defective so as to be unsuitable for the manufacture of good salt and if not removed upon his order the superintendent may withhold brine from such manufactory until such order shall be complied with.

**§ 18. Damaged salt; penalties.**—The superintendent shall erase his inspection brand from packages containing salt which, after it has been inspected and the duties paid, shall have suffered any

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\*So in the original.



damage so as to reduce its weight or impair its quality and require that it shall be repacked, if reduced in weight only, or destroyed, if impaired in quality, by returning it to the cisterns from which the owner or manufacturer thereof shall draw his supplies of brine for his works.

Salt of an inferior quality, dirty, damaged or condemned may be sold loose or in bulk at the works by the manufacturer thereof, the inspector designating the quantity by weight in the inspection bill, as in ordinary cases, and distinguishing the same as "second quality" and the person having it inspected paying the duty thereon. Such inferior salt shall not be mixed with other salt which is to be ground or prepared as table salt or for the packing of provisions, nor shall it be packed in a manner calculated to deceive an innocent purchaser as to its real quality, and if packed in barrels in the ordinary manner it shall be branded in plain letters, "second quality."

Every person violating the provisions of this section relating to the mixing of such salt with other salt or the preparing of it for table use or for packing purposes shall for every such violation forfeit to the people of the state the sum of one hundred dollars.

The inspector or deputy who shall have inspected and branded any Onondaga salt put up in barrels or sacks which on being opened were found to contain salt of a quality inferior to that required by law, and the maker and manufacturer whose name is branded on any such barrel or painted on any such sack shall forfeit to the purchaser injured thereby the sum of one dollar for each bushel so found inferior.

**§ 19. Deleterious ingredients prohibited.**—No salt manufacturer or other person shall put any article or ingredient into the salt water in his cisterns or while evaporating, other than such as shall be allowed and approved of by the superintendent in the general rules and regulations which he shall adopt in relation thereto.

Every person violating any provision of this section shall for every such offense forfeit to the state the sum of fifty dollars.

**§ 20. Bittern pans.**—Every manufacturer shall keep one goosibittern pan for each kettle or pan used in the manufacture of salt for the purpose of removing the feculent matter and other foreign substances held in solution in the brine during the process of making salt. The superintendent shall, in the rules and regulations adopted by him, regulate the manner of using such pans and of removing the impurities contained in the salt water during the process

of manufacturing the same into salt and the manner of cleansing the kettles and pans.

§ 21. **Salt in barrels** —The superintendent shall cause all salt barrels to be inspected before salt is packed therein, under such rules and regulations as shall from time to time be adopted and published by him, and all salt shall be rejected when offered for inspection in barrels not inspected or in inspected barrels not properly secured after the salt is packed therein so as to preserve it from waste or injury, and all barrels used shall be such as are approved by the superintendent.

Salt in barrels shall not be marked unless the barrels are thoroughly seasoned, stout and well made, with a sufficient number of good strong hoops, to be well nailed and secured, not burned or colored on the inside or dirty on the outside, nor without having the holes made for inspection or the knot holes, if any, well and securely plugged up.

If the salt upon examination shall prove not to be thoroughly drained, or if, when the barrels are standing on end, water shall exude therefrom, such barrels shall not be branded by the inspector, but the salt therein shall forthwith be emptied back into the bins where it shall remain for a further period of fourteen days before it shall be lawful again to pack the same.

§ 22. **Quantity of salt in barrels.**—The superintendent shall from time to time specify the quantity of salt that barrels or other packages offered for inspection shall contain, and shall prohibit the inspector's brand from being placed upon any package that does not correspond with such regulations.

He shall require that all ground salt manufactured at the Onondaga springs and put up for the market in barrels, kegs, boxes, sacks or bags, shall be legibly marked in letters at least half an inch in length, on each barrel, keg, box, sack or bag, with the word "solar" or "boiled" as the fact may be.

§ 23. **Name of manufacturer to be branded on package.**—Every manufacturer shall brand or mark with durable paint every barrel or other package of salt manufactured by him with the name of the district in which his block of kettles is located, the surname at full length of the proprietor or owner of the manufactory at which the salt shall have been made, and the initial letter of his christian name. If the salt shall have been manufactured for a company or association of individuals, he shall mark or brand in like manner upon every such barrel or other package, the name of the

firm by which the company is usually called ; and no inspector shall inspect or pass any barrel or other package of salt which shall not be so marked or branded, nor shall the superintendent affix his brand to any such barrel or other package.

§ 24. **Boat sunk in canal.**—The owner or agent of any boat laden in whole or in part with salt which shall be sunk or partly immersed in the canals or navigable waters of this state or filled with water so as to damage any part of the cargo of salt on board shall not sell or otherwise dispose of the salt in the original packages. Such salt shall be emptied from the barrels or sacks containing it and sold or disposed of after having been exposed to public inspection so that its quality and condition may be known. Salt so injured shall not be again packed in barrels bearing the inspector's brand nor shipped or transported beyond the bounds of this state.

Every person violating the provisions of this section shall forfeit to the state the sum of two hundred and fifty dollars for each violation.

§ 25. **Duplicate inspection bills.**—The superintendent shall, after the inspector has ascertained the quantity of salt in any parcel offered for inspection, and is satisfied that it is of such quality that it ought to pass inspection, deliver duplicate inspection bills thereof dated and signed by him to the person applying for the inspection. Such bills shall contain the name of the manufacturer and of the person at whose instance the inspection is had, the number of bushels and pounds of salt contained in the parcel and the number of bags, barrels or other vessels in which it shall be contained with a certificate of the inspector stating that he has inspected the salt specified in such bills. The person applying for inspection shall thereupon deliver such duplicate inspection bills to the receiver or person in charge of his office in the district where the salt is inspected and pay the duties on the salt mentioned therein.

§ 26. **Receiver's duties.**—The receiver shall :

1. Mark such inspection bills with numbers in the order in which they are presented, placing the same number upon each duplicate bill of the same parcel and commencing anew with the commencement of every month.

2. Enter upon his books an account of the parcels of salt in which he shall state the number of the parcel, the name of the manufacturer and of the person at whose instance the salt shall have been inspected, the number of bushels and pounds of salt in the parcel, the number of bags, barrels or other vessels in which it is contained, the amount of duties thereon and the day when the same are paid.

8. Sign a receipt at the foot of each duplicate inspection bill and deliver the same to the person paying the duties.

§ 27. **Delivery of bills to the inspector.**—The person receiving the bills shall forthwith deliver one to the inspector by whom the salt was inspected, to be entered in a book kept by him, and retain the other as evidence of the payment of the duties thereon.

Such inspector shall thereupon brand or mark with durable paint the barrel or cask containing the salt so inspected with his surname at length and the first letter of his christian name, with the addition of the word "inspector," in letters of at least one inch in length; and shall mark upon the head of the barrel or cask with durable paint, the number of pounds of salt contained therein.

Barrels, sacks, or other packages in which salt shall have been packed and inspected, shall not be again used for the packing of salt therein until the marks or brands made by the superintendent shall be first effaced.

The inspection shall not be deemed complete nor the payment of the duties consummated until one of the inspection bills so receipted shall have been returned to the superintendent, and the salt, when in cask headed up, shall have been so marked or branded.

Every person violating the provisions of this section relating to the package of salt in barrels, sacks or other packages before the marks or brands made by the superintendent shall have been effaced shall forfeit to the state for every bushel of salt so packed the sum of five dollars.

§ 28. **Wells; pumps.**—The superintendent shall from time to time provide additional wells, pumps, reservoirs, aqueducts and machinery for supplying the salt manufactories with brine in the largest quantities and of the best quality and shall keep them and all other works and property under his charge belonging to the state in complete repair and employ competent workmen for that purpose. No repairs or alterations involving an aggregate expenditure of more than two thousand dollars shall be made or undertaken without the approval of the comptroller to be indorsed upon detailed estimates, nor shall any new structures, which upon previous estimates involve an expense of five hundred dollars or more, be undertaken without the written approval of the governor and comptroller.

§ 29. **Lines of aqueducts to be kept in repair.**—The superintendent shall lay and keep in repair the principal lines of aqueducts necessary for supplying the salt manufacturers with water, and for the equal and proper distribution thereof, and for that purpose may

cross and lay aqueducts along any highway avoiding the traveled part thereof and causing no unnecessary obstructions thereto. In laying such aqueducts no damage shall be done to any street or highway so crossed or occupied, nor shall the convenient or unobstructed use of such street or highway be impaired thereby. He may enter upon the lands of any individual or company or upon any leased land and carry the salt across the same by suitable and proper aqueducts or conduits paying to the owner or lessee of such lands the damages sustained by him to be ascertained by mutual agreement, or by the appraisement of three commissioners appointed as prescribed in the condemnation law. No damages shall be paid to any person or association for the occupancy of their lands when the same are occupied or used for the manufacture of salt and are entitled to receive the salt water furnished by the state.

§ 30. **Ascertainment of quantity of water.**—The superintendent shall cause the quantity of water required for the efficient working of the pumps or other machinery for raising salt water from the wells and reservoirs now or hereafter to be constructed in any district, to be ascertained by competent engineers, and shall certify the same to the superintendent of public works who on receiving such certificate shall cause such quantity of water to be at all times supplied to the Syracuse level of the canal in addition to that usually required or supplied for the purposes of navigation except when it shall be necessary to withdraw the water from such level for repairs.

The certificate shall be filed in the office of the superintendent of public works and the amount of water thus ascertained to be necessary may be drawn from the canal for such purposes by the superintendent of the Onondaga salt springs provided the navigation of the canal be not thereby impeded. All bulkheads, gates and other appurtenances required for taking and regulating the flow of such water shall be constructed and maintained by the superintendent of the Onondaga salt springs; and any property taken by virtue of this section shall be paid for by agreement or appraisement in the manner prescribed in the condemnation law.

§ 31. **Numerical list of salt blocks to be kept.**—The superintendent shall keep on file in each of the receiver's offices a numerical list of all the fine salt blocks containing the name of the owner or occupant of each, the several manufactories entitled to the first use of the water, and the date of any additional erections, entitled to the surplus water, in the order of their erection.

A similar list shall also be kept of the coarse salt erections entitled to the first use of the water including the number of covers or rooms; and of all subsequent erections entitled to supplies from the surplus.

§ 32. **Distribution of brine.**—No distinction in the furnishing and distribution of brine to the fine and coarse salt erections from the Onondaga salt springs or wells shall be made between the works situated on the state lands and those built on private lands. If there be an insufficiency of brine to supply all such erections, the superintendent shall so classify them as to furnish a full supply of water to each an equal portion of the time while such deficiency exists.

The superintendent shall, during the months of July and August, so classify favorably to the erections for the manufacture of solar salt, but such classification shall not give such erections a supply for more than an equal portion of the time.

The superintendent need not furnish water for erections on private lands unless a description of such lands shall be filed in his office and the location approved by him, nor shall he deliver or suffer to be delivered any brine to the fine salt manufacturers during the months of December, January, February or March.

The superintendent shall not furnish brine to any erection for the manufacture of fine or coarse salt erected after April fifteenth, eighteen hundred and fifty-nine, either upon vacant lands or by doubling the blocks on lots then used and occupied for manufacturing purposes, until the quantity of brine raised and distributed by the state shall be sufficient for fully supplying all the works through the manufacturing season, without classifying the same for any part of the time.

§ 33. **Cisterns; repair of buildings.**—Every salt manufacturer who shall provide an earth reservoir for the storage of salt water may have such reservoir filled by the superintendent, from any surplus not required for immediate distribution, and shall be allowed to use the same in addition to the ordinary supply to which such manufacturer may be entitled according to the provisions of this chapter.

Every manufacturer of fine salt shall have two cisterns or reservoirs attached to and adjoining his manufactory. Such cisterns or reservoirs shall be well made and as free from leaks as may be, and shall each be of sufficient capacity to contain as much salt water as can be boiled or evaporated in such manufactory from the kettles or pans set therein, in two days.

No manufacturer of fine salt who shall neglect to provide such



reservoirs or cisterns or to keep the same in good repair, so as to save the water from undue or unnecessary waste, shall be entitled or permitted to receive any salt water from the state reservoirs.

Every manufacturer shall keep his buildings, cisterns and appurtenances for the manufacture of salt in thorough repair, so that the salt manufactured by him shall not suffer damage or be impaired in quality after the same shall have been deposited in the bins or storehouses. If any such manufactnrer shall neglect or refuse, upon the requisition of the superintendent, to place his works in such a state of repair, or to put them in a proper condition for the manufacture and preservation of good salt, he shall forfeit his right to the use of the salt water, and the superintendent may disconnect the communications between the state aqueducts and his cisterns until such manufacturer shall comply with the requisitions of the superintendent.

§ 34. **Unauthorized communication.**—No manufacturer or other person shall open or aid, assist, counsel or advise in opening the communication between any manufactory or salt work and the logs or conduits leading to or connecting with the state reservoirs without the consent of the superintendent or one of his deputies.

Every person violating the provisions of this section shall forfeit to the state the sum of one hundred dollars for every such violation. The owners of any salt works surreptitiously receiving a supply of salt water by such means shall forfeit and pay to the state a like sum on demand of the superintendent; and in default of payment shall be deprived of his supply of water until such demand shall be complied with.

§ 35. **Discharge of laborers for neglect.**—The superintendent shall require the discharge of every boiler, packer or other laborer employed by any manufacturer who shall neglect or refuse to obey his, or his deputies, directions in and about any salt works or manufactory respecting the manufacture, packing or care of salt produced by such manufacturer and to be offered for inspection; and each person so discharged shall not be again employed by any person in the manufacture of salt without the consent of the superintendent.

§ 36. **Leases.**—All leases of lots for the manufacture of fine salt shall be signed, sealed and acknowledged by the superintendent and lessee and recorded in the office of the clerk of Onondaga county in a book to be provided by him for that purpose and all provisions of law regulating the execution, acknowledgment and recording of deeds shall apply to such leases.



§ 37. **Vacant lands.**—The superintendent may lay out any vacant lands belonging to the state within the salt manufacturing districts, not required for other purposes, and being suitable for the manufacture of salt, into lots of the ordinary size, for the erection of fine salt blocks, and lease the same to any person applying therefor after he shall have erected a salt manufactory thereon; but no person shall enter upon state lands for the purpose of securing the same for the erection of such manufactory without first obtaining the written permission of the superintendent, nor until the same has been duly surveyed and mapped.

The superintendent may likewise lease to any person any vacant or unoccupied lot or part of a lot which he may consider necessary or proper to attach to any existing lot to be used by such lessee as a part of his manufacturing premises; but no grounds in the immediate vicinity of any of the pump-houses or other public works, vacant or unoccupied shall be laid out or occupied for manufacturing purposes, but the same shall be reserved for the use and convenience of the state.

§ 38. **Earthworks.**—The superintendent may, whenever the construction of any earthwork requiring the services of an engineer shall be undertaken by him, apply to the state engineer for the services of an engineer, who may by a written order if in his judgment the interests of the state will be promoted thereby, direct the resident engineer of either the Oswego or Erie canal to assume the charge of such work under the direction of the superintendent of the Onondaga salt springs, and to make surveys, maps, profiles, estimates and measurements thereof.

§ 39. **When salt works may be erected on state lands.**—Any individual or company having coarse salt works on their own or state lands in the vicinity of the “north side cut” canal, in the city of Syracuse, not bounded on either side by such “side cut,” may take any of the state lands not otherwise occupied, on the east side of such canal, equal in size to one fine salt lot, for building their salt store-houses for storing and packing coarse salt. After giving written notice to the superintendent that they have located such lot for such purpose he shall give to such individual or company requiring the site for such store-house a lease thereof for such purpose, and shall lay out into suitable size for fine salt blocks all other state lands lying on the east side of such “side cut” and lease them for fine salt manufactories in the manner provided by law.

§ 40. **Lands on west side of north side cut.**—The lands bor-

dering on the west side of such "north side cut" for two hundred feet in depth, which have been set apart for the use of coarse salt works, are hereby set apart for the use of the fine salt works by the lessees of such lands, or their assigns, except so much thereof as may be necessary for the purpose of building store-houses for such coarse salt works by the lessees of such lands. If such lessees or their assigns shall not use such lands so set apart for fine salt works within three years after the completion of the "north side cut" canal extension, then the superintendent may lease the same in the same manner as other fine salt lots are leased by him.

§ 41. **Charges against the state ; estimates to be made out.** — All charges against the state or liabilities incurred for the support and maintenance of the Onondaga salt springs shall be audited and paid by the superintendent from the moneys to be advanced to him from time to time by the treasurer, upon the warrant of the comptroller.

Before drawing any money from the treasury to be expended by him, the superintendent shall make out in minute detail an estimate of the necessary expenses to be incurred so far as they can reasonably be foreseen, for a period of two months, commencing with the month of January, and forward the same to the comptroller, who shall thereupon authorize the superintendent to make his draft upon the treasurer for the amount of such estimate or such portion thereof as he shall think necessary and proper. To meet any extraordinary expenditure, the superintendent may, in like manner, make special estimates, upon which the comptroller shall advance in like manner if the same be approved by him, but the superintendent shall not receive from the treasury a larger sum than the amount of the appropriations made by the legislature for the support of the salt springs.

At the expiration of each period of two months, the superintendent shall make a full and perfect abstract of the vouchers in his possession to which his affidavit shall be attached, to the effect that he has deposited in the bank designated by the comptroller all the moneys received by him for duties on salt, rents, fines or penalties, or for other property of the state ; that such abstract is a true abstract of all the vouchers taken by him as superintendent for such two months ; that the money specified in the receipts, referred to in the abstract, has been actually paid as specified in such receipts ; and that all the receipts were filled up as they then appear, and were

read, or the amount distinctly stated, to the signer of each, when signed, according to his best knowledge and belief.

The report and vouchers shall be returned to the comptroller, and if satisfactory to him, he shall enter his approval on the abstract and audit and allow the accounts of the superintendent. The superintendent shall make out a report showing the expenditures for the two preceding months, corresponding in its detail of items to the estimate presented before an advance is authorized to be made by the comptroller. If any such vouchers are objectionable, the comptroller shall enter his disapproval on the particular voucher and not audit and allow the same until satisfied of its legality and propriety.

§ 42. **Leases by the superintendent of certain lots.**—When any of the lots granted by the commissioners of the land office for the manufacture of coarse salt shall not be actually occupied for that purpose by the commencement of erections thereon, within two years from the date of such grant, the superintendent may lease the same from year to year, and until they shall be wanted for actual occupancy, to any person who will pay the largest rent therefor.

§ 43. **Sale of fine salt lots.**—The commissioners of the land office may, whenever in their judgment it would be for the best interests of the state, cause to be appraised and sell and convey in fee any of the fine salt lots laid out and set apart for the manufacture of fine salt on the Onondaga reservation. Such sale shall not take place until the superintendent shall officially certify that such lots are not necessary for the manufacture of salt and may be sold and disposed of without injury to the interests of the state and the lessees or their legal representatives shall request such lot or lots to be appraised and sold, and shall release absolutely all right to have, demand or receive from the state any moneys by way of damages, either on account of the termination of the leases by which such lots are held or on account of the destruction or removal of any salt blocks, their appurtenances or any other property or buildings therefrom, or any part or portion of the appraisement, value or bid as hereinbefore provided.

Such lessees or their legal representatives after the appraisement of the value of such lots is returned to and approved by the commissioners of the land office may for thirty days after the date of such approval become the purchasers of such lots at the appraised value thereof upon the usual terms as to the time of payment of principal and interest; but if such power or right of purchase shall not be exercised within the time limited, it shall cease and such

lots shall be advertised and sold under the direction and control of the commissioners to the highest bidder. No such lot or lots shall be sold unless the amount bid therefor shall be at least equal to the appraised value as approved by such commissioners. If the owner or his legal representative does not take such lands at such appraisal and no sufficient bid is made therefor, the title thereof shall vest and be in the people of the state, released and discharged from the terms and conditions of any such lease, and such lessee shall remove the buildings and other property within thirty days after such sale or sales. In case of failure so to remove such buildings or property within such time, the same shall be considered as given up and abandoned and shall become and be the property of the person or persons so purchasing such lots.

All moneys arising from the sale of any lot by virtue of the provisions of this section shall be placed by the comptroller in the state treasury. The commissioners of the land office shall purchase such other lands as may be necessary to maintain the aggregate of the lands set apart for the manufacture of salt required by the constitution.

The commissioners of the land office may in their discretion appraise and estimate the value of any other lands now under lease from the state on such reservation and not needed for the manufacture of salt, such lands to be appraised and valued exclusive of any improvements made by the lessees thereon and may sell them in the same manner and on the same terms as hereinbefore provided, giving to the lessees the same pre-emptive right of becoming the purchaser.

§ 44. Purchase of salt lands; payments therefor.—The commissioners of the land office shall purchase as often and in such quantities as in their judgment shall be for the interests of the state, lands in the vicinity of the Onondaga salt springs suitable and convenient for the manufacture of coarse salt by solar evaporation but such lands shall not be less in quantity than the lands now belonging to the state, directed by the next section to be sold, and not more than the proceeds of the lands so directed to be sold will pay for, after deducting all sums to be paid to the owners of coarse salt erections situated thereon.

The commissioners may before purchasing make such preliminary examinations respecting the value of the lands to be sold and the sums required to be paid therefor to the owners of coarse salt erections as they shall deem necessary and shall cause the lands so pur-

chased to be conveyed to the people of the state free from incumbrance, and the same shall be paid for out of any moneys belonging to the general fund not otherwise appropriated. In purchasing such lands the commissioners shall have regard to convenience of location for the purpose of removing thereto the coarse salt works and erections situated on the lands hereinafter directed to be sold.

§ 45. **Sale of coarse salt lands.**—The commissioners shall, after purchasing such land, sell in such quantities and as fast as in their judgment it shall be for the interest of the public, the land set apart for the manufacture of coarse salt; and before selling such land shall cause the whole to be surveyed and laid out in such manner as they shall deem most suitable and file a map thereof in the offices of the state engineer and secretary of state, and a copy in the office of the clerk of the county of Onondaga. Such sales shall be made in the manner and on the terms provided by law for the sale of lands belonging to the state, after giving two months' notice of such sale, by publishing the same in the state paper and two daily papers in Syracuse. No such sale shall be made unless the commissioners be of the opinion that the proceeds thereof will be more than sufficient to purchase an equal quantity of land for the manufacture of coarse salt, and make the compensation provided by the preceding section to the owners of coarse salt works and erections on the lands herein directed to be sold for any damages sustained by them by the removal of such works and erections and sufficient to defray all the expenses attending such sale and purchase. The proceeds of the sale shall be paid into the treasury and so much thereof as shall be necessary to reimburse any money paid out of the general fund under sections forty-four to forty-seven inclusive, with interest thereon, shall belong to such fund and the residue shall be invested in the purchase of other lands convenient for the manufacture of coarse salt. .

The owners of erections for the manufacture of coarse salt on such lands shall remove the same within such times as the commissioners shall specify and require, but no such removal shall be required to be made between the first day of April and the first day of October in any year, and the owners shall be at liberty at any time to remove such work and erections. The commissioners shall, before selling the lands mentioned in this section, make or cause to be made, a separate appraisal of the value of the parcels of suitable size to be designated by them of the lands occupied by the Syracuse Coarse Salt Company and the Onondaga Coarse Salt Company, and

such companies respectively may become the purchasers of such parcels at such appraisers' value.

§ 46. **Damages to be appraised.**—The damages which the owners of such coarse salt works and erections shall sustain by reason of the removal thereof, shall be appraised and determined by the commissioners, who, for that purpose, shall ascertain by competent proof, the number of vats having separate covers for the manufacture of coarse salt located on the lands herein directed to be sold, and on the owner or owners of such coarse salt erections producing to the comptroller proof that the vats, covers, works and other erections, or any number thereof not less than one hundred, have been removed from such lands, he shall draw his warrant on the treasurer for the payment to such owners of such sum as the commissioners shall deem a just compensation for each vat having a separate cover, and a full compensation for all damages sustained by such owner or owners by such removal and relinquishment of the occupancy of such lands. In appraising such damages the commissioners shall estimate any difference between the value for the business of manufacturing coarse salt of the location from which such work shall be removed and the location on other lands to be purchased to which the same shall be taken.

§ 47. **Lease of salt lands ; maps to be made and filed.**—The lands purchased for the manufacture of coarse salt by solar evaporation shall be deemed set apart for the manufacture of coarse salt and may be located by persons, companies or associations agreeably in all respects to the laws now existing on that subject, but no more than fifty acres shall be located by any one individual, company or association. The commissioners shall make or cause to be made a map of the lands so purchased and shall file the same or a copy thereof in the office of the state engineer, and another in the office of the superintendent of the Onondaga salt springs. The persons, companies or corporations occupying lands directed to be sold by this chapter shall be entitled to preference in the location of the lands so purchased in quantity at least equal to those occupied by their erections on the lands sold, and the removal of their works shall be without prejudice to any priority of right to salt water which they now have.

§ 48. **Exchange authorized.**—The commissioners of the land office may, whenever in their judgment it shall be for the interest of the state, exchange any land on the Onondaga reservation set apart for the manufacture of fine or coarse salt for any lands be-



longing to individuals which would, in their opinion, be better adapted and more available for the manufacture of salt, but in no case shall such exchange be made for a less amount in area of land, nor shall any money be paid by the state for any supposed difference in the value of the individual land in excess of the value of the state land, but the state may demand and receive any difference in money in the value of the state land which in the judgment of the commissioners there may be over the value of the individual land so offered in exchange.

§ 49. **Distribution of copies of law.**—The superintendent shall cause such number of copies of this chapter to be printed in pamphlet form as he shall judge necessary, and cause them to be distributed among the several officers mentioned in this chapter and the justices of the peace, constables and salt manufacturers on the salt springs reservation.

§ 50. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 51. **When to take effect.**—This chapter shall take effect on October first, eighteen hundred and ninety-two.

SCHEDULE OF LAWS REPEALED.

LAWS OF	Chapter	Sections.
1825.....	826.....	All.
1847.....	340.....	All.
1848.....	346.....	All.
1854.....	391.....	All.
1859.....	346.....	All.
1860.....	270.....	All.
1866.....	814.....	All.
1870.....	279.....	All.
1872.....	599.....	1.
1874.....	200.....	All.
1877.....	198.....	All.
1878.....	374.....	All.
1880.....	139.....	All.
1880.....	574.....	All.
1883.....	251.....	All.



**CHAP. 685.**

**AN ACT** in relation to municipal corporations, constituting chapter seventeen of the general laws.

**APPROVED** by the Governor May 18, 1892. **Passed**, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

**CHAPTER XVII OF THE GENERAL LAWS.****THE GENERAL MUNICIPAL LAW.**

- SECTION**
1. Short title and use of terms.
  2. Limitation of indebtedness.
  3. Investigation of expenditures of towns and villages.
  4. Temporary loans.
  5. Funded debt.
  6. Payment of municipal bonds.
  7. Funding of bonded debts.
  8. Issuance of municipal bonds.
  9. Registry of municipal bonds.
  10. Conversion of coupon into registered bonds.
  11. Defects not invalidating municipal bonds.
  12. Municipal taxes of railroads payable to county treasurer.
  13. Abolition of office of railroad commissioners.
  14. Appointment of railroad commissioners.
  15. Oath and undertaking of commissioners.
  16. Exchange or sale of railroad stock and bonds.
  17. Annual report of commissioners and payment of bonds.
  18. Accounts and loans by commissioners
  19. Reissue of lost or destroyed bonds.
  20. Payment of judgments against municipal corporations.
  21. Liability for damages by mobs and riots.
  22. Condemnation of real property.
  23. Insurance of property.
  24. Free public libraries.
  25. Acquisition of lands for erection of monuments.
  26. Leases of public buildings to grand army posts.
  27. Discrimination against non-residents.
  28. Laws repealed.
  29. When to take effect.

**SECTION 1. Short title and use of terms.**—This chapter shall be known as the general municipal law.

The term, municipal corporation, as used in this chapter, includes only a county, town, city and village. The term, governing board,

includes the board of supervisors of a county, the town board of a town, the common council of a city, and the board of trustees of a village.

**§ 2. Limitation of indebtedness.**—No county containing a city of more than one hundred thousand inhabitants, nor any such city, shall contract any debt, the amount of which exclusive of its outstanding debts shall exceed a sum equal to five per cent of the aggregate valuation of the real property within its bounds, as assessed for state and county purposes upon the then last corrected assessment-roll, nor shall it contract any such debt if the amount thereof inclusive of its outstanding debts shall exceed a sum equal to ten per cent of such valuation.

This section shall not apply to debts contracted for the purpose of retiring or paying an existing indebtedness pursuant to the provisions of this chapter.

**§ 3. Investigation of expenditures of towns and villages.**—If twenty-five freeholders in any town or village shall present to a justice of the supreme court of the judicial district in which such town or village is situated, an affidavit, stating that they are freeholders and have paid taxes on real property within such town or village within one year, that they have reason to believe that the moneys of such town or village are being unlawfully or corruptly expended, and the grounds of their belief, such justice, upon ten days' notice to the supervisor, and the officers of the town disbursing the funds to which such moneys belong, or the trustees and treasurer of the village, shall make a summary investigation into the financial affairs of such town or village, and the accounts of such officers, and, in his discretion, may appoint experts to make such investigation, and may cause the result thereof to be published in such manner as he may deem proper.

The costs incurred in such investigation shall be taxed by the justice, and paid, upon his order, by the officers whose expenditures are investigated, if the facts in such affidavit be substantially proved, and otherwise, by the freeholders making such affidavit. If such justice shall be satisfied that any of the moneys of such town or village are being unlawfully or corruptly expended, or are being appropriated for purposes to which they are not properly applicable, or are improvidently squandered or wasted, he shall forthwith grant an order restraining such unlawful or corrupt expenditure, or such other improper use of such moneys.

**§ 4. Temporary loans.**—Moneys shall not be borrowed by a

municipal corporation on temporary loan, except in anticipation of the taxes of the current fiscal year, and for the purposes for which such taxes are levied, and shall not be in excess of the amount of such taxes. Such loans shall always be made payable within eight months, and in no case shall interest run on any such loan after such taxes are paid into the treasury of the corporation.

§ 5. **Funded debt.**—A funded debt shall not be contracted by a municipal corporation, except for a specific object, expressly stated in the ordinance or resolution proposing it; nor unless such ordinance or resolution shall be passed by a two-third vote of all the members elected to the board or council adopting it, or submitted to, and approved by the electors of the town or county, or tax payers of the village or city when required by law. Such ordinance or resolution shall provide for raising annually, by tax, a sum sufficient to pay the interest and the principal, as the same shall become due.

§ 6. **Payment of municipal bonds.**—Where the bonds of a municipal corporation have been lawfully issued, and the payment of the principal or interest thereof shall not have been otherwise paid or provided for, the same shall be a charge upon such corporation, and shall be levied and assessed, collected and paid the same as other debts and charges. When for any reason any portion of the principal or interest due upon such bonds shall not have been paid, the same shall be assessed, levied and collected at the first assessment and collection of taxes by such corporation after such omission.

§ 7. **Funding of bonded debts.**—The bonded indebtedness of a municipal corporation, including interest due or unpaid, may be paid up or retired by the issue of new substituted bonds for like amounts by the board, council or officers having in charge the payment of such bonds. Such new bonds shall only be issued when the existing bonds can be retired by the substitution of the new bonds therefor, or can be paid up by money realized by the sale of such new bonds. Where such bonded indebtedness shall become due within two years from the issue of such new bonds, such new bonds may be issued and sold to provide money in advance to pay up such existing bonds when they shall become due. Such new bonds shall contain a recital that they are issued pursuant to this section, which recital shall be conclusive evidence of their validity and of the regularity of the issue; shall be made payable not less than one nor more than thirty years from their date; shall bear date and draw interest from the date of the payment of the existing bonds, or the receipt of the money to pay the same, at not exceeding the rate of four per cent

per annum, payable quarterly or semi-annually; and an amount equal to not less than two per cent of the whole amount of such new bonds shall be payable each year after the issue thereof. Such new bonds shall be sold and negotiated at the best price obtainable, not less than their par value; shall be valid and binding on the municipal corporation issuing them; and until payable shall be exempt from taxation for town, county, municipal or state purposes. All bonds and coupons retired or paid shall be immediately canceled. A certificate shall be issued by the officer, board or body issuing such new bonds, stating the amount of existing bonds, and of the new bonds so issued, which shall be forthwith filed in the office of the county clerk.

§ 8. **Issuance of municipal bonds.**— Each bond issued by a municipal corporation shall be signed by each officer issuing the same, with the designation of his office; and the interest coupons attached thereto, if any, shall be signed by one of their number. Each such bond shall state the place of payment and, if no coupons are attached thereto, the name of the payee.

§ 9. **Registry of municipal bonds.**— Each municipal corporation shall keep in the office of its clerk suitable books, in which shall be entered a full description of the amount, rate of interest, class, number, date of issue, pursuant to what law, and maturity of all bonds issued by any of its officers, and, if such statement is not already entered, of all bonds converted from coupon into registered bonds. A bond to which no coupons are attached may be registered, at the request of the payee, in the books so kept in the office of such clerk, and a certificate of such registry shall be indorsed upon the bond by such clerk, and attested by his seal, if he has one. The clerk shall be entitled to a fee of twenty-five cents for each bond so registered. The principal and interest of a registered municipal bond shall be payable only to the payee, his legal representatives, successors or assigns, and shall be transferable only upon presentation to such clerk, with a written assignment duly acknowledged or approved. The name of the assignee shall be entered upon such bond so transferred and the books so kept in the office of the clerk.

§ 10. **Conversion of coupon into registered bonds.**— When the owner of coupon bonds of a municipal corporation shall present any such bonds to the officers who issued the same, or their successors, with a written request for their conversion into registered bonds, such officer shall cut off and destroy the coupons and stamp print or write upon each of the bonds a statement, properly dated,

of the amount and value of such coupons, and that the interest, at the rate and on the date, as was provided by the coupons, as well as the principal, is to be paid to such owner, his legal representatives, successors or assigns, at a place therein stated, which shall be the place stated in the coupons, unless changed with the written consent of the owner; and thereupon such bonds may be registered in the office of the clerk of the municipal corporation. This section shall not apply where provision is otherwise made by law or local ordinance, for the conversion or exchange of coupons for registered bonds.

**§ 11. Defects not invalidating municipal bonds.**—When the bonds of a municipal corporation have been issued and sold by the proper authorities, and the time fixed for their maturity shall be for a longer period than provided by the law under which they were issued, a variance of not exceeding sixty days shall not affect their validity.

**§ 12. Municipal taxes of railroads payable to county treasurer.**—If a town, village or city has outstanding unpaid bonds, issued, or substituted for bonds issued, to aid in the construction of a railroad therein, so much of all taxes as shall be necessary to take up such bonds, except school district and highway taxes, collected until May 18, 1899, on the assessed valuation of such railroad in such municipal corporation, shall be paid over to the treasurer of the county in which the municipal corporation is located. Such treasurer shall purchase with such moneys of any town, village or city, such bonds, when they can be purchased at or below par, and shall immediately cancel them in the presence of the county judge. If such bonds cannot be purchased at or below par, such treasurer shall invest such money in the bonds of the United States, of the state of New York, or of any town or village or city of such state, issued pursuant to law; and shall hold such bonds as a sinking fund for the redemption and payment of such outstanding railroad aid bonds. If a county treasurer shall unreasonably neglect to comply with this section, any tax payer of the town, village or city having so issued its bonds may apply to the county judge of the county in which such municipal corporation is situated, for an order compelling such clerk to execute the provisions of this section. The county treasurer of any county in which one or more towns therein shall have issued bonds for railroad purposes, shall, when directed by the board of supervisors or county judge of the county, execute and file in the office of the county clerk an undertaking, with not less than two

sureties, approved by such board or judge, to the effect that he will faithfully perform his duties pursuant to this section. The annual report of a county treasurer shall fully state, under the head of "railroad sinking fund," the name and character of all such investments made by him or his predecessors, and the condition of such fund.

§ 13. **Abolition of office of railroad commissioners.**—The board of supervisors of any county may, upon the application of the auditing board of any municipal corporation therein, by resolution, abolish the office of railroad commissioners of such municipal corporation, and direct the manner of the transfer of their duties to the supervisor of the town, or the treasurer of the municipal corporation other than a town, and upon his compliance with such directions, such transferee shall be vested with all the powers conferred upon such railroad commissioners and subject to all the duties imposed upon them.

§ 14. **Appointment of railroad commissioners.**—The county judge of any county within which is a municipal corporation having or being entitled to have railroad commissioners, when this chapter shall take effect, and in which the duties imposed upon such commissioners are not fully performed, shall continue to appoint and commission, upon the application of twenty freeholders within such corporation, three persons, who shall be freeholders and resident taxpayers therein, commissioners for the purpose of performing the duties and completing the business required of them pursuant to this chapter or any law. Such commissioners shall hold their office for five years, and until others are appointed by the county judge, unless their duties shall be sooner performed, or the office shall be abolished, who shall also, in like manner, fill any vacancies that may exist therein. Such commissioners shall each receive the sum of three dollars per day for each day actually engaged in the discharge of their duties, and the necessary disbursements to be audited and paid by the usual auditing and disbursing officers of such municipal corporation. A majority of such commissioners, at a meeting of which all have notice, shall constitute a quorum.

§ 15. **Oath and undertaking of commissioners.**—Before entering upon their duties such commissioners shall take the constitutional oath of office, and make and file with the county clerk of their county, their joint and several undertaking, with two or more sureties to be approved by the county judge of their county, to the effect that they will faithfully discharge their duties as such commission



ers, and truly keep, pay over and account for all moneys belonging to such corporation coming into their hands.

**§ 16. Exchange or sale of railroad stock and bonds.**—The commissioners or officers of a municipal corporation, having the lawful charge and control of any railroad stock or bonds, for or in payment of which the bonds of such municipal corporation have been lawfully issued in aid of such railroad corporation, may exchange the stock or bonds of such railroad corporation for and in payment of such bonds, or the new substituted bonds of such municipal corporation, when such exchange can be made for not less than the par value of the stocks or bonds so held by them. If they cannot make such exchange they may sell such stock or bonds at not less than par; but they may, on the application and with the approval, of the governing board of the municipal corporation, owning such stock and bonds, exchange, sell or dispose of such stock or bonds, at the best price and upon the best terms obtainable, for the municipal corporation they represent, and shall execute to the purchaser the necessary transfers therefor. All moneys received for any stock or bonds shall only be applied to the payment and extinguishment of the bonds of the municipal corporation, lawfully issued in aid of any such railroad, or substituted therefor; except that if the bonds so issued or substituted have all been paid, or the moneys so realized shall be more than sufficient to pay them in full, and all the costs and expenses of the sale, such proceeds or balance thereof shall be paid by the officers making the sale, to the supervisor of the town, or the treasurer of the municipal corporation, and applied to such lawful uses as the governing board of the municipal corporation, entitled to the same, may direct.

**§ 17. Annual report of commissioners and payment of bonds.**—The commissioners of a municipal corporation, having in charge the moneys received and collected, and who are responsible for the payment of the interest of the bonds lawfully issued by such municipal corporation, in aid of railroads, shall annually report to the governing board of the municipal corporation, the total amount of the municipal indebtedness of the municipal corporation they represent, upon such bonds or such new bonds substituted therefor, the date of the bonds and when payable, the rate of interest thereon, the acts under which they were issued, the amount of principal and interest that will become due thereon before the next annual tax-levy and collection of taxes for the next succeeding year, and the amount in their hands applicable to the payment of the principal or



interest thereon. Each year such governing board shall levy and collect of the municipal corporation sufficient money to pay such principal and interest, as the same shall become due and payable. When collected, such moneys, with the unpaid sums on hand, shall be forthwith paid over to such commissioners, and applied by them to the purposes for which collected or held. When paid, such bonds shall be presented by such commissioners to the governing<sup>\*</sup> board of the municipal corporation, at least five days before the annual town-meeting, village or city election, or meeting of the board of supervisors, next thereafter held, who shall cancel the same, and make and file a record thereof in the clerk's office of the municipal corporation, whose bonds were so paid or canceled.

§ 18. **Accounts and loans by commissioners.**—Such commissioners shall present to the auditing board of the municipal corporation they represent, at each annual meeting of such board, a written statement or report, showing all their receipts and expenditures, with vouchers. They shall also loan on proper security or collaterals, or deposit in some solvent bank, or banking institutions, at the best rate of interest they can obtain, or invest in the bonds of the municipal corporation they represent, or in bonds of the state, or of any town, village, city or county therein, issued pursuant to law, or in the bonds of the United States, all moneys that shall come into their hands by virtue of their office, and not needed for current liabilities; and all earnings, profits or interest accruing from such loans, deposits or investments, shall be credited to the municipal corporation they represent, and accounted for in their annual settlement with the governing board thereof.

§ 19. **Reissue of lost or destroyed bonds.**—When any bonds lawfully issued by a municipal corporation in aid of any railroad, or in substitution for bonds so issued, shall be lost or destroyed, such commissioners may issue new bonds in the place of the ones so lost or destroyed, at the same rate of interest, and to become payable at the same time, upon the owner furnishing satisfactory proof, by affidavit, of such ownership, and loss or destruction, and a written indemnity, with at least two sureties, approved as to form and sufficiency by the county judge of the county in which such municipal corporation is situated. Every new bond so issued shall state upon its face the number and denomination of the bond for which it is issued, that it is issued in the place of such bond claimed to have been lost or destroyed, that it is issued as a duplicate thereof, and

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<sup>\*</sup> So in the original.

that but one is to be paid. Such affidavit and indemnity, duly indorsed, shall be immediately filed in the county clerk's office.

§ 20. **Payment of judgments against municipal corporation.**— When a final judgment for a sum of money shall be recovered against a municipal corporation, and the execution thereof shall not be stayed pursuant to law, or the time for such stay shall have expired, the treasurer or other financial officer of such corporation having sufficient moneys in his hands belonging to the corporation not otherwise specifically appropriated, shall pay such judgment upon the production of a certified copy of the docket thereof.

§ 21. **Liability for damages by mobs and riots.**— A city or county shall be liable to a person whose property is destroyed or injured therein by a mob or riot, for the damages sustained thereby, if the consent or negligence of such person did not contribute to such destruction or injury, and such person shall have used all reasonable diligence to prevent such damage, shall have notified the mayor of the city, or sheriff of the county, of a threat or attempt to destroy or injure his property by a mob or riot, immediately upon acquiring such knowledge, and shall bring an action therefor within three months after such damages were sustained. A mayor or sheriff receiving notification of a threat or attempt to destroy or injure property by a mob or riot shall take all lawful means to protect such property; and if he shall neglect or refuse, the person whose property shall be destroyed or injured, may elect to bring his action for damages against such officer instead of the city or county.

§ 22. **Condemnation of real property.**— A municipal corporation authorized by law to take and hold real property for the uses and purposes of the corporation, may, if it is unable to agree with the owners for the purchase thereof, acquire title to such property by condemnation.

§ 23. **Insurance of property.**— Public officers having by law the care and custody of the public buildings and other property of a municipal corporation, may insure the same at the expense and for the benefit of such corporation.

§ 24. **Free public libraries.**— A majority of the taxable inhabitants of a town, city or village, as shown by the last preceding assessment-roll thereof, may petition the governing board of such municipal corporation for the establishment of a free public library therein; which petition shall be approved as to its sufficiency by the county judge of the county in which such municipal corporation is located, by his indorsement thereon, and shall be filed by the clerk of such mu-

municipal corporation, in the clerk's office of the county in which such corporation is situated. Upon such petition being made and approved, the governing board of such municipal corporation may, by a resolution, establish and maintain a free public library or reading-room therein, with or without branches, under such regulations as such board may prescribe, and the town, village or city may appropriate for suitable buildings or rooms, and for the foundation of such library or reading-room, a sum not exceeding one dollar for each elector residing therein, at the time such appropriation is made, who voted at the last preceding general election therein; and may also appropriate annually, for the maintenance and increase thereof, or of any public library or reading-room organized pursuant to law, in such town, village or city, a sum not exceeding seventy cents for each such elector therein; and may receive, hold and manage any devise, bequest or donation, for the establishment, increase or maintenance of a free library or reading-room in such municipal corporation. The money so appropriated shall be audited, assessed, levied and collected the same as other town, village or city charges. When a village shall establish a free public library or reading-room, it shall be exempt from any charge for the establishment or maintenance of a library or reading-room in the town in which it is situated.

§ 25. **Acquisition of lands for erection of monuments.**—The governing board of a village or town, or the trustees of a monument association, may acquire not to exceed three acres of land, for the erection of a soldiers' monument, or a monument or other structure as a memorial of some distinguishing or important event in the history of the state or nation, and for laying out such lands as a public park or square, if such lands are vacant or have buildings thereon not exceeding two thousand five hundred dollars in value, and if a judge of the county, or a justice of the supreme court of the district, in which such memorial is to be erected, shall give his written approval of the acquisition of such lands for such purpose.

§ 26. **Leases of public buildings to Grand Army posts.**—A municipal corporation may lease, for not exceeding five years, to a post or posts of the Grand Army of the Republic, or other veteran organization of honorably discharged union soldiers, sailors or marines, a public building or part thereof, belonging to such municipal corporation, except school-houses in actual use as such, without expense, or at a nominal rent, fixed by the board or council having charge of such buildings.

§ 27. **Discrimination against non-residents.**—Any restriction

§ 2. **County a municipal corporation.**—A county is a municipal corporation, comprising the inhabitants within its boundaries, and formed for the purpose of exercising the powers and discharging the duties of local government, and the administration of public affairs conferred upon it by law.

§ 3. **Actions and contracts in corporate name.**—An action or special proceeding for or against a county, or for its benefit, and upon a contract lawfully made with it, or with any of its officers or agents authorized to contract in its behalf, or to enforce any liability created, or duty enjoined upon it, or upon any of its officers or agents for which it is liable, or to recover damages for any injury to any property or rights for which it is liable, shall be in the name of the county. All contracts or conveyances, by or in behalf of, or to a county, shall be deemed to be in the name of the county, whether so stated or not in the contract or conveyance.

§ 4. **Disposition of property and apportionment of debts on alteration of boundary.**—When a county is divided or its boundary changed, its real property shall become the property of the county, within whose limits it lies after the change. The personal property and debts of such county, shall be apportioned between the counties interested, by the supervisors thereof, or by the committees of their respective boards appointed for that purpose, subject to the approval of such boards; and the debts shall be charged on each county, according to such apportionment.

## ARTICLE II.

### BOARDS OF SUPERVISORS.

#### SECTION 10. Meeting and organization of boards of supervisors.

11. Penalty for neglect.
12. General powers.
13. Limitation of credit.
14. Resolutions authorizing issue of obligations.
15. Legalization of informal acts.
16. Correction of assessments, and returning and refunding of illegal taxes.
17. Powers, how exercised.
18. Printing and distribution of proceedings of board.
19. Designation of newspapers for publication of session laws.
20. Publication of session laws and concurrent resolutions.
21. Compensation.
22. Election notices and official canvass.
23. Compensation of supervisors.
24. Form and presentation of accounts against the county
25. Additional requirements.
26. County records.

**SECTION 27. Examination of witnesses and officers.**

- 28. Committee of board.
- 29. Adjournment.
- 30. Filing and enforcement of undertaking.
- 31. Location of county buildings.
- 32. Proceedings on petition.
- 33. How submitted to vote.
- 34. Alteration and erection of towns.
- 35. First election in new town.
- 36. Establishment of disputed town lines.
- 37. Fire districts outside of incorporated villages.
- 38. Soldiers' monuments.

**§ 10. Meeting and organization of boards of supervisors.—**The supervisors of the cities and towns in each county, when lawfully convened, shall be the board of supervisors of the county. They shall meet annually, at such time and place as they may fix, and may hold special meetings at the call of the clerk, on the written request of a majority of the board, and whenever required by law. A majority of the board shall constitute a quorum. They may adjourn from time to time, and their meetings shall be public. At the annual meeting they shall choose one of their number chairman for the ensuing year. In his absence at any meeting they shall choose a temporary chairman to serve during such absence. They shall appoint a clerk to serve during their pleasure, and until his successor is appointed; and shall fix his compensation. They may compel the attendance of absent members at their meetings, make rules for the conduct of their proceedings, and impose and enforce penalties for the violation thereof, not exceeding fifty dollars for each offense.

**§ 11. Penalty for neglect.—**If any supervisor shall refuse or neglect to perform any of the duties which are or shall be required of him by law, as a member of the board of supervisors, he shall for every such offense forfeit the sum of two hundred and fifty dollars to the county. For a refusal or neglect to perform any other duty required of him by law, he shall for every such offense forfeit a like sum to the town.

**§ 12. General powers.—**The board of supervisors shall:

1. Have the care and custody of the corporate property of the county.
2. Annually audit all accounts and charges against the county, due or to become due, during the ensuing year, and direct the raising of sums necessary to defray them in full.
3. Annually direct the raising of such sums in each town as shall be necessary to pay its town charges.
4. Cause to be assessed, levied and collected, such other assess-

ments and taxes as shall be required of them by any law of the state.

5. Fix the salaries and compensation of county treasurers, district attorneys and superintendents of the poor of their county, which shall be a county charge, and not be changed during the term of any such officer; and prescribe the mode of appointment, and fix the number, grade and pay of the clerks, assistants and employes in such offices, when not otherwise fixed by law, which shall be a county charge.

6. Borrow money when they deem it necessary, for the erection of county buildings, and for the purchase of sites therefor, on the credit of the county, and for the funding of any debt of the county not represented by bonds, and issue county obligations therefor, and for other lawful county uses and purposes; and authorize a town in their county to borrow money for town uses and purposes on its credit, and issue its obligations therefor, when, and in the manner, authorized by law.

7. Make such laws and regulations as they may deem necessary for the destruction of wild and noxious animals and weeds, within the county.

8. Provide for the protection and preservation, subject to the laws of the state, of wild animals, birds and game, and fish and shell-fish, within the county; and prescribe and enforce the collection of penalties for the violation thereof.

9. Divide any school commissioner's district within the county which contains more than two hundred school districts, and erect therefrom an additional school commissioner's district, and when such district shall have been formed, a school commissioner for the district shall be elected in the manner provided by law for the election of school commissioners.

10. Fix and regulate the time of opening and closing the county offices daily, except Sundays and holidays, where such time is not fixed by law.

11. Contract, at such times and upon such terms as the board may by resolution determine, with the authorities of any other county for the reception into the penitentiary of such county, and the custody and employment at hard labor therein, of any person convicted within their county of any offense, other than a felony, and sentenced to imprisonment in a county jail, or penitentiary, for a term exceeding sixty days.

12. Cause an action to be brought upon the undertaking of any county officer, whenever a breach thereof shall occur.

13. Purchase, lease, or otherwise acquire, for the use of the county,



necessary real property for court-houses, jails, alms-houses, asylums and other county buildings, and for other county uses and purposes; and erect, alter, repair, or construct, any necessary buildings or other improvements thereon for necessary county use, and cause to be levied, collected and paid, all such sums of money as they shall deem necessary therefor; and sell, lease or apply to other county use, the sites and buildings, when a site is changed; and if sold, apply the proceeds to the payment for new sites, buildings and improvements.

14. To make one or more jury districts and to make such regulations in respect to the holding of the terms of courts as shall be necessary by reason of such change.

§ 13. **Limitation of credit.**—An issue of town or county obligations, pursuant to this article, shall not be authorized when such issue, with the amounts issued and outstanding under any previous or other authority of the board, shall exceed ten per cent of the assessed valuation of the real estate of such town or county, as it shall appear on the last assessment-rolls thereof, unless by the assent of a majority of the electors of such town or county, whose credit is proposed to be given, voting on the question at a regular town meeting of such town, or an annual election in such county; but in no case shall the amount of such town or county obligations, issued and outstanding, exceed one-third of such assessed valuation. This section shall not include any case where special authority has been given by the legislature to issue such obligations in excess of the amounts herein authorized.

§ 14. **Resolutions authorizing issue of obligations.**—Every resolution of any such board, authorizing the issue of such obligations, shall specify the form thereof, the place of payment, in annual installments or otherwise, within a period not exceeding thirty years from the date of such obligation, and the rate of interest to be paid thereon, not exceeding the legal rate; and no such obligation shall be sold for less than par. Such resolution shall also contain a provision requiring adequate security to be given by the officer, or board of officers authorized to issue such obligations, for the faithful performance of his or their duty in issuing the same, and the lawful application of the funds arising therefrom, and of the funds which may be raised by tax for the payment thereof, which may come into their hands.

§ 15. **Legalization of informal acts.**—Any such board may, by a two-thirds vote of all its members, legalize the informal acts of any town meeting or village election within such county, and the regular acts of any one or more town or village officers, performed in good faith, and within the scope of their authority.



§ 16. **Correction of assessments, and returning and refunding of illegal taxes.**—Any such board may correct any manifest clerical or other error in any assessment or returns made by any one or more town officers to such board, or which may, or shall have properly come before such board for its action, confirmation or review; and cause to be refunded to any person the amount collected from him of any tax illegally or improperly assessed or levied, and upon the order of the county court, it shall refund any such tax. In raising the amount so refunded, or necessary to supply the deficiency caused by the correction of any error in such assessment, such board shall, in the same or next ensuing tax-levy, adjust and apportion such amount upon the property of the several towns and wards of the county as shall be just, taking into consideration the portion of the state, county, town and ward included therein, and the extent to which such town or ward has been benefited thereby.

Such board shall ascertain, fix and determine the amount to which any person or corporation is equitably entitled to receive back from any town, for taxes paid while the boundary line between towns was in dispute and cause the same to be levied and collected.

§ 17. **Powers, how exercised.**—Every act or resolution of the board shall require for its passage the assent of a majority of the supervisors elected, unless otherwise required by law. Every act or resolution of such board in the exercise of its legislative powers shall have a title prefixed, concisely expressing its contents, followed by a reference to the law or laws conferring the authority to pass the act or resolution, the number of votes, both for and against its passage, and, when the assent of any supervisor is required, that such assent was given; and all acts or resolutions so passed shall be numbered in the order of their passage, and certified by the chairman and clerk, and within six weeks after the close of each session, published in the newspapers in the county appointed to publish the session laws of the legislature.

§ 18. **Printing and distribution of proceedings of board.**—Each board of supervisors shall cause as many copies of the proceedings of its session certified by its chairman and clerk, to be printed as a county charge in a pamphlet volume as soon as may be after each session, as they may deem necessary for exchange with other boards, and for the members of the board and other town and county officers. At least three copies of such printed volume shall be forwarded to and filed in each town clerk's office, and in the county clerk's office.

Such printed proceedings shall contain a summary statement of all bills against the county, presented to the board, and audited and allowed or disallowed, indicating the amount allowed or disallowed. The board of supervisors may, as often as it shall deem necessary, cause to be printed and distributed in like manner, in the same volume or otherwise, its county laws, combined with suitable forms and instructions thereunder.

**§ 19. Designation of newspapers for publication of session laws.**—The members of the board of supervisors in each county representing, respectively, each of the two principal political parties into which the people of the county are divided, or a majority of such members representing, respectively, each of such parties shall designate in writing a paper fairly representing the political party to which they respectively belong, to publish the session laws and concurrent resolutions of the legislature required by law to be published, which designation shall be signed by the members making it and filed with the clerk of the board of supervisors. If a majority of the members of the board representing either of such parties can not agree upon a paper they shall so report to the clerk of the board, and in such case or if either of such parties has no representative upon the board, the board of supervisors shall at their annual meeting or at a special meeting called for that purpose, designate a paper fairly representing the views of such political party as one of the papers to publish the laws.

The clerk of each board of supervisors as soon as such designation is made shall forward to the secretary of state a notice stating the name and address of such newspapers as have been selected for the publication within the county of the laws and concurrent resolutions of the legislature, or if there is but one newspaper in such county he shall before the first day of January in each year, forward to the secretary of state a notice stating the name and address of such newspaper, and that it is the only newspaper published in the county.

**§ 20. Publication of session laws and concurrent resolutions.**—Such laws and resolutions shall be published within thirty days after the receipt thereof from the secretary of state; and the whole of every such law which, in the ordinary type of the newspaper in which it is published, would not occupy more than two columns, must be published in one issue, and when it exceeds such space, shall be published as soon as possible, by occupying such space in each successive issue.

Concurrent resolutions proposing amendments to the constitution shall be published in such newspapers once in each week for thirteen consecutive weeks, under the direction of the secretary of state, at the expense of the state.

§ 21. **Compensation.**—The expense of such publication shall be a county charge, which, in counties not having a city of over fifty thousand inhabitants shall not be less than twenty nor more than fifty cents per folio, and in other counties not less than thirty nor more than fifty cents per folio; the specific rate in either case to be fixed by the board of supervisors.

§ 22. **Election notices and official canvass.**—Such boards, except in the counties of Erie and Kings, shall, in like manner, designate two newspapers, representing respectively each of the two principal political parties into which the electors of the county are divided, in which shall be published the election notices issued by the secretary of state, and the official canvass, and fix the compensation therefor, which shall be a county charge.

§ 23. **Compensation of supervisors.**—For the services of supervisors, except in the counties of Albany, Broome, Columbia, Erie, Kings, Oneida, Onondaga, Rensselaer and Richmond, each supervisor shall receive from the county, compensation at the rate of four dollars per day, for each calendar day's actual attendance at the sessions of their respective boards, and mileage at the rate of eight cents per mile, for once going and returning from his residence to the place where the sessions of the board shall be held, by the most usual route for each regular and special session. No other compensation or allowance shall be made to any supervisor for his services, except such as shall be by law a town charge, except that he may be entitled to receive his actual expenses incurred in any investigation or other duty, which may be lawfully committed to him by the board, which shall require his attendance at a place away from his residence, and five miles or more distant from the place where the board shall hold its sessions. In the county of Richmond, the compensation of each supervisor shall be five hundred dollars, and mileage as above provided.

The board of supervisors of any county may also allow to each member of the board for his services in making a copy of the assessment-roll, three cents for each written line for the first one hundred lines, two cents per line for the second hundred written lines, and one cent per line for all written lines in excess of two hundred, and one cent for each line of the tax-roll actually extended by him.

**§ 24. Form and presentation of accounts against the county.**—No account shall be audited by a board of supervisors, or by a committee thereof, or by superintendents of the poor, unless it shall be made out in items and accompanied with an affidavit that the items of such accounts are correct, and that the disbursements and services charged therein have been in fact made or rendered, or are necessary to be made or rendered at that session of the board, and stating that no part of the amount claimed has been paid or satisfied. But any such account so presented and verified may be disallowed in whole or in part, and the board or such superintendents may require any other or further evidence of the truth or propriety thereof. Each such account shall be numbered from one upwards in the order of presentation, and a memorandum of the time of presentation and the name of the claimant, and if assigned, the name of each assignor or assignee shall be entered in the proceedings of the board. No such account, after being so presented, shall be withdrawn without the unanimous consent of the board except to be used as evidence in an action or proceeding, and after being so used it shall be forthwith returned.

**§ 25. Additional requirements.**—Boards of supervisors may make such additional regulations and requirements, not in conflict with law, concerning the keeping and rendering of official accounts and reports of its county and town officers, and the presentation and auditing of bills presented to their board or to the town boards of their county, as they may deem necessary for the efficiency of the service and the protection of the interests of the public.

**§ 26. County records.**—Such boards shall have the general charge of the books and records of the county, subject to the legal rights of the officers using or having custody of the same, and shall provide for their safe-keeping. They may authorize county officers having the official custody or control of any such books and records, or of maps and papers, to cause copies thereof to be made and certified for the public use; and it shall be their duty to cause the same to be made and certified whenever by reason of age or exposure, or any casualty, the same shall be necessary. Any officers making such transcripts or copies shall be paid such sum therefor as may be just; but such payment shall not exceed a sum to be certified by the county judge, or a justice of the supreme court of the judicial district, as reasonable therefor. Such board of supervisors shall not accept and pay for any such services, until the work shall be examined and approved as to its manner and form of execution, by such

judge or justice; nor shall any board of supervisors order any such work to be done until such judge or justice, after an examination, shall certify that such work is necessary for the security and safety of the public records.

**§ 27. Examination of witnesses and officers by the board.**— Any such board may require the attendance of witnesses and may examine any person as a witness upon any subject or matter within its jurisdiction, or examine any officer of the county, or a town therein, in relation to the discharge of his official duties, or to the receipt or disbursement by him of any moneys, on\* concerning the possession or disposition by him of any property belonging to the county, or to use, inspect, or examine, any book, account, voucher or document in his possession or under his control, relating to the affairs or interest of such county or town.

**§ 28. Committee of board.**— When any such board shall have appointed any member or members thereof, a committee upon any subject or matter of which the board has jurisdiction, and shall have conferred upon such committee power to send for persons and papers, the chairman of such committee shall possess all the powers herein given to, and imposed upon the chairman of the board of supervisors.

**§ 29. Adjournment.**— Such board or committee may adjourn from time to time, and such committee may hold meetings in pursuance of such adjournments, or on call of the chairman thereof, during the recess, or after the final adjournment of the board of supervisors; but where a warrant shall have been issued as provided by section 845 of the Code of Civil Procedure and not returned, such adjournment of the board or committee at whose instance it was issued, shall be to a time and place certain, of which notice shall be given by the chairman, to the judge before whom the warrant shall be returnable; and if the person against whom it issued shall be arrested, he may, in the discretion of the judge who issued the warrant, be discharged from custody, upon entering into an undertaking to the county, with two sureties to be approved by such judge, to the effect that he will appear and submit to an examination before such board or committee, as required, at the time and place to which it shall have been adjourned, or pay to the county treasurer such sum of money as such judge may direct.

**§ 30. Filing and enforcement of undertaking.**— Such undertaking shall be filed in the clerk's office of the county, and if default shall be made in the condition thereof, the district attorney of

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\* So in the original.

the county may sue and collect the sum therein mentioned, and the money, when received, and all moneys received for fines and penalties before such boards or committees, shall be paid into the treasury of the county.

§ 31. **Location of county buildings.**—The board of supervisors may, except in the county of Kings, by a majority vote of all the members elected thereto, fix or change the site of any county building, and the location of any county office; but the site or location of no county building or office shall be changed when the change shall exceed one mile, and shall be beyond the boundaries of the incorporated village or city, where already situated, except upon a petition of at least twenty-five freeholders of the county, describing the buildings or office, the site or location of which is proposed to be changed, and the place at or near which it is proposed to locate such new buildings or office; which petition shall be published once in each week for six weeks immediately preceding an annual or special meeting of such board, in three newspapers of the county, if there be so many, otherwise, in all the newspapers published in the county as often as once a week. With such petition shall also be published a notice signed by the petitioners, to the effect that such petition will be presented to the board of supervisors at the next meeting thereof.

§ 32. **Proceedings on petition.**—On the presentation of such petition and notice, with due proof of their publication, if a majority of all the members elected to such board vote in favor of a resolution for the removal of the site of the buildings described in such petition, to the site also therein described, or the change of the location of its county offices or any of them, said board shall thereupon direct that such resolution, together with the notice that the question of such removal will be submitted to the electors of the county at the ensuing general election, be published in at least two newspapers published in the county to be designated by the board, once in each week for six consecutive weeks immediately preceding such general election. Such resolution and notice shall be published accordingly.

§ 33. **How submitted to vote.**—The question of the removal of the site of such buildings, or the change of the location of any such office, shall thereupon be voted on by the electors of the county at such general election by ballot. If a majority of the ballots cast shall be in favor of such removal, the proceedings of such board of supervisors shall be deemed ratified by the electors, and the change of the site of such buildings, or the removal of such offices, shall be



made accordingly ; but the old site, and the buildings thereon shall be continued and used until new buildings upon the new site have been provided and accepted by the board of supervisors.

§ 34. **Alteration and erection of towns.**—Any such board may, at an annual meeting thereof, by a vote of two-thirds of all the members elected thereto, on the application of at least twelve freeholders of each of the towns to be affected, divide or alter the bounds of any town in the county, or erect a new town therein. Notice of such application, signed by such freeholders, shall be posted in five conspicuous public places in each of such towns for four weeks next preceding a presentation of such application to the board ; and a copy of such notice shall be published for at least six consecutive weeks next preceding the meeting of the board to which the application is to be made, in three newspapers published in the county, if there be so many, otherwise in all the newspapers published in the county as often as once a week. Such applicants shall present to the board with such application and notice, due proof of the posting and publishing of such notice, and furnish the board with a map and survey of such towns, showing the proposed alteration. The board shall designate the name of any new town so erected. If the application be granted, a copy of such map, with a certified statement of the action of the board thereto annexed, shall be filed in the office of the secretary of state, who shall cause such statement to be printed and published with the laws of the next legislature.

§ 35. **First election in new town.**—The board shall designate the time and place of holding the first town meeting in a new town so erected, and appoint three electors thereof, who shall post notice of such town meeting, signed by the chairman or clerk of the board of supervisors, in four conspicuous public places in such town, at least fourteen days before holding the same. Such electors shall preside at such town meeting, appoint a clerk, open and keep the polls, and exercise the same powers as justices of the peace when presiding at town meetings ; but if such electors shall refuse or neglect to serve, the electors of the town present shall substitute one of their number for each one so neglecting or refusing to serve ; and the posting of the notice of such meetings shall be valid if done by any elector of the town. Nothing herein shall affect the rights, or abridge the term of office of any town officer in any town, but they shall hold and exercise the offices in the town in which they shall respectively reside after the change or alteration.

§ 36. **Establishment of disputed lines.**—Such board may es-



tablish and define boundary lines between the several towns of the county. A notice of intention to apply to the board to establish and define such boundary line, particularly describing the same, and the line as proposed to be acted upon by such board, signed by a majority of the members of the town board of some one of the towns to be affected thereby, shall be published for four consecutive weeks next preceding the meeting of the board at which the application is to be presented, in three newspapers published in the county in, or nearest to such towns, if so many, otherwise in all the newspapers published in the county as often as once a week. A copy of such notice shall also be served personally, at least fifteen days before the meeting of such board, on the supervisor and town clerk of each of the other towns to be affected thereby. A copy of the resolution, as adopted by the board, which shall contain the courses, distances and fixed monuments specified in such boundary line or lines, together with a map of the survey thereof, with the courses, distances and fixed monuments referred to therein, plainly and distinctly marked and indicated thereon, shall be filed in the office of the secretary of state within thirty days after the adoption of such resolution, who shall cause the same to be printed and published with the laws of the next state legislature after the adoption thereof.

§ 37. Fire districts outside of incorporated villages.—Each board of supervisors may, on the written verified petition of more than one-half of the taxable inhabitants of a proposed fire district, outside of an incorporated village or city, and within the county, whose names appear upon the last preceding assessment-roll of the town or towns in which such proposed fire district is located, as owning or representing more than one-half of the taxable property of the proposed district; establish such fire district, and authorize such district to procure supplies of water, and purchase apparatus for the extinguishment of fires therein, and rent or purchase suitable buildings for the keeping and storing of the same, and provide for the assessment, levy and collection of the cost thereof on such districts in the same manner, at the same time, and by the same officers, as the taxes of the town or towns in which such districts are located, are assessed, levied and collected; but if it shall appear from such assessment-roll that more than one-half of the taxable property within such proposed district is owned by non-residents thereof, a fire district may be established as above provided, upon the petition, duly verified, and signed by more than one-half of the taxable inhabitants of the proposed district whose names appear on such

assessment-roll, as owning or representing more than one-half of the taxable property of such district owned or represented by residents of the proposed district. No such district shall extend in any direction to exceed one mile from the nearest engine-house, or hook and ladder-house located within the district, nor shall any property be entitled to the protection of, or liable to be assessed or taxed for the support of any fire department of such district, unless the same lies wholly within the district. The legal voters of any such district may elect not less than three, nor more than five residents thereof, for terms not exceeding five years, to be fire commissioners, and fill vacancies therein, who shall take title to, and hold in trust for the district, all property acquired by it for fire purposes, and with power to make all contracts for the purposes herein contemplated; and within the appropriations voted by the resident taxpayers of the district; also elect a treasurer in such district, and fill vacancies therein, who shall be entitled to receive and have the custody of the funds of the district, and pay out the same for the purposes herein provided for, on the order of the fire commissioners; which treasurer shall be elected for the term of three years; and before entering upon the duties of his office, he shall give such security as the board of supervisors may require.

§ 38. **Soldiers' monument.**— Any such board may also, by a vote of two-thirds of its members, raise and appropriate such moneys as it may deem necessary, for the erection within the county of public monuments, in commemoration of the federal soldiers and sailors in the late war of the rebellion, or of any other public person or event, and for repairing and remodeling such monuments; all moneys so raised shall be expended by direction of the board of supervisors; but no county officer shall receive any compensation for services rendered pursuant to this section.

### ARTICLE III.

#### CLERKS OF BOARDS OF SUPERVISORS.

##### SECTION 50. Duties.

51. Annual statement.

52. Report of county indebtedness.

53. Statement of railroad, telegraph, telephone and electric light taxes.

54. Forfeiture.

§ 50. **Duties.**— Clerks of boards of supervisors shall:

1. Record in books provided for the purpose all the proceedings of such board.

2. Make regular entries of all their resolutions or decisions.

3. Record the vote of each supervisor on any question submitted to the board, when the law authorizing the vote requires an entry of the yeas and nays, and in other cases if required by any member present.

4. File and preserve all accounts acted upon by the board.

5. Designate upon every account audited and allowed by the board the amount so audited and allowed, and the items or amount disallowed; and deliver to any person who may demand it, a certified copy of any account on file in his office, on receiving from such person eight cents per folio therefor.

6. Keep the books and papers of the board open to public inspection without charge.

7. Transmit to the librarian of the State Library at Albany, a copy of the proceedings of such board, annually, and within twenty days after the same shall be published.

8. Prepare the tax-rolls under the direction of the board.

9. Perform such other duties as may lawfully be required of him by the board.

§ 51. **Annual statement.**—The clerk shall annually, on or before the first day of January, make out and certify, and within two weeks cause to be published in a newspaper printed in the county, with the abstract of accounts furnished by town auditors, a statement for the preceding year, containing:

1. An abstract of all county accounts presented to the board at its last annual meeting, allowed or disallowed, with the amount claimed and allowed, and the name of each person presenting the same, and the general nature of the account.

2. The amount, items and nature of all compensation, audited by the board to each member thereof.

3. The number of days the board was in session, and the distance traveled by each member in attending the same.

§ 52. **Report of county indebtedness.**—The clerk shall annually, on or before the second Monday in December, transmit to the comptroller by mail, in the form which the comptroller shall prescribe, a certified statement of all the indebtedness of his county, and of each town, village and ward therein, and of the aggregate valued amount of real and personal estate in each town or ward, as corrected by the board of supervisors.

§ 53. **Statement of railroad, telegraph, telephone and electric-light taxes.**—The clerk shall, within five days after the mak-

ing out, or issuing of the annual tax-warrant by the board of supervisors, prepare and deliver to the county treasurer of his county, a statement showing the title of all railroad corporations and telegraph, telephone and electric-light lines in such county, as appear on the last assessment-roll of the towns or cities therein, the valuation of the property, real and personal, of such corporation and line in each town or city, and the amount of tax assessed or levied on such valuation in each town or city in his county.

§ 54. **Forfeiture.**— Any such clerk who shall refuse or neglect to make any report, return or statement required of him by this article, shall forfeit to the county, the sum of one hundred dollars, to be recovered by the district attorney thereof, in the name of the county.

## ARTICLE IV.

### DUTIES OF BOARDS OF SUPERVISORS RELATING TO HIGHWAYS AND BRIDGES.

#### SECTION 60. Limitation of article.

61. County highways and bridges.
62. Location and construction of bridges.
63. County aid to towns for the construction and repair of bridge.
64. Construction by county of destroyed bridges.
65. Apportionment of expenses, when a bridge is intersected by town or county lines.
66. County's share of expenses, to be raised and paid to commissioners of highways of towns.
67. May authorize a town to construct a bridge outside of a boundary line.
68. Bridges over county lines.
69. Authorize towns to borrow money.
70. The raising and expenditures of moneys.
71. Streets outside of city limits.
72. Survey and records of highways.
73. Regulation of toll-rates.
74. Highways in counties of more than 300,000 acres of unimproved land.
75. Appropriation of certain non-resident highway taxes.
76. Balance of state appropriations.
77. Alteration of state roads.
78. Further powers.

§ 60. **Limitation of article.**— This article shall not apply to bridges on the Hudson river below Waterford, or on the East river, or over the waters forming a part of the boundaries of the state.

§ 61. **County highways and bridges.**— A board of supervisors shall, on the application of twenty-five resident tax-payers, when

satisfied that it is for the interest of the county, lay out, open, alter, or discontinue a county highway therein, or cause the same to be done, and construct, repair, or abandon a county bridge therein, or cause the same to be done, when the board shall deem the authority conferred on commissioners of highways insufficient for that purpose, or that the interests of the county will be promoted thereby. All expenses so incurred shall be a county charge. Such powers shall not be exercised unless the applicants therefor shall prove to the board the service of a written notice, personally or by mail, on a commissioner of highways of each town in the county, at least twelve days prior to the presentation of such application, specifying therein the object thereof; and when the application is to lay out a highway, or construct a bridge, the route or location thereof; and in all other cases, a designation of the highway or bridge to be affected thereby.

§ 62. **Location and construction of bridges.**—The board may authorize the location, change of location and construction of any bridge, applied for by any town, or towns, jointly, or by other than a municipal corporation, created under a general law, or by any corporation or individual for private purposes; and if a public bridge, erected other than by a municipal corporation, establish the rates of toll for crossing such bridge; but if such bridge is to cross a navigable stream, provision shall be made in the resolution or permission authorizing the same, for the erection and maintenance of a suitable draw, to prevent any obstruction of the navigation of such stream; and if a private bridge, provision shall be made that the draw shall be kept open as may be required to permit all vessels to pass without loss of headway. When such bridge shall be intersected by the line of counties, the action of the board of supervisors of each county shall be necessary to give the jurisdiction herein permitted.

§ 63. **County aid to towns for the construction and repair of bridges.**—If the board of supervisors of any county shall deem any town in the county to be unreasonably burdened by its expenses for the construction and repair of its bridges, the board may cause a sum of money, not exceeding two thousand dollars in any one year, to be raised by the county and paid to such town to aid in defraying such expenses.

§ 64. **Construction by county of destroyed bridges.**—If any bridge within a county, or intersected by any boundary line of a county, shall be destroyed by the elements, and the board of supervisors of the county shall deem that the expenses of the construction of a new bridge at or near the site of the bridge so de-

stroyed would be too burdensome upon the town or towns within such county, which would otherwise be liable therefor, the board of supervisors of any such county may provide for the construction and completion of a bridge and all necessary approaches thereto, at or near the site of the bridge so destroyed. If the bridge so destroyed shall have been constructed by a corporation created under a general law, and the site thereof, and of the approaches thereto, or either, shall be the property of such corporation, such board of supervisors may purchase the interest of such corporation, or any other person, in such site or approaches, if such purchase can be accomplished upon reasonable terms; but if such site or approaches can not be lawfully acquired by such purchase, or otherwise, upon reasonable terms, such board may acquire title to premises on either side of such site, and provide for the construction of a bridge and approaches thereto, at such place, at the expense of the county, or of the two counties jointly, as the case may be, provided such bridge shall be so located as not to increase the distance to be traveled upon the highway to reach each end of such bridge more than five rods. Any board of supervisors providing for the construction of any such bridge may determine by resolution whether the expenses of the maintenance and repair thereof shall thereafter be a county charge, or a charge upon such town or towns.

§ 65. **Apportionment of expenses when a bridge is intersected by town or county lines.**—If any public free bridge, intersected by the boundary line of a county, shall also be intersected by the boundary line of two or more towns in such county, the board of supervisors of such county shall apportion as it shall deem equitable, between such towns, their respective shares of the expenses of the construction, maintenance and repair of such bridge, and the amount to be received by each town, of the money raised by the county to be paid toward defraying the expenses of constructing and repairing such bridge.

§ 66. **County's share of expenses to be raised and paid to the commissioners of highways of the towns.**—The board of supervisors shall cause to be raised and collected the amount to be paid by the county to any town toward the expenses of a bridge and when collected the same shall be paid to the commissioners of highways of the town, to be applied by them toward the payment of such expenses.

§ 67. **May authorize a town to construct a bridge outside of a boundary line.**—The board of supervisors of any county may au-



thorize any town, on a vote of a majority of the electors thereof voting at a regular town meeting, to appropriate a sum, or pledge its credit, to aid in, or wholly construct and maintain a bridge outside the boundaries of the town or county, or from or within the boundary line of any town into another town or county, but forming a continuation of highways leading from such town or county, and deemed necessary for the public convenience.

§ 68. **Bridges over county lines.**—The board shall provide for the care, maintenance, preservation and repair of any draw, or other bridge intersecting the boundary line of counties or towns, and which bridge is by law a joint charge on such counties or towns, or on the towns in which it is situated; and to severally apportion, as it may deem equitable, the expense thereof on the towns respectively liable therefor, or on the respective counties when liable; but when such bridge shall span any portion of the navigable tide-waters of this state, forming, at the point of crossing, the boundary line between two counties, such expense shall be a joint and equal charge on the two counties in which the bridge is situated, and the board of supervisors in each of such counties shall apportion such expense among the several towns and cities in their respective counties, or upon any or either of such towns and counties, as in their judgment may seem proper; but no town or city not immediately adjacent to such waters at the point spanned by such bridge, shall be liable for a larger proportion of such expense than the taxable property of such town or city bears to the whole amount of taxable property of such county; but no such bridge shall be constructed unless authorized by resolution adopted by the board of supervisors in each of such counties.

§ 69. **Authorize towns to borrow money.**—The board may, upon the application of any town or towns liable to taxation for constructing, building or repairing any highway or bridge therein, or upon its borders pursuant to a vote of a majority of the electors thereof at an annual town meeting, or special town meeting called for that purpose, or upon the written request of the commissioners of highways and town board of such town or towns, authorize such town or towns to construct, build and repair such highway or bridge, and to borrow such sums of money for and on the credit of the town as may be necessary for that purpose, and to lay out, widen, grade or macadamize such highway, or to purchase for public use any plankroad, turnpike, toll-road or toll-bridge in such town or towns, and may authorize the company owning the same to sell the



same, or any part thereof or the franchises thereof, or to pay any debt incurred in good faith by or in behalf of such town or towns for such purpose. If such highway or bridge shall be situated in two or more towns in the same county, the board shall apportion the expenses among such towns in such proportion as shall be just.

§ 70. **The raising and expenditure of moneys.**—The board shall, from time to time, impose upon the taxable property of such towns sufficient tax to pay such obligations as they shall become due. The supervisor and town clerk shall each keep a record, showing the date and amount of the obligations issued, the time and place of their payment, and the rate of interest thereon. The obligations shall be delivered to the supervisor of the town, who shall dispose of the same for not less than par, and pay the proceeds thereof to the commissioners of highways of the town, or to such other officer as shall be designated by the board of supervisors, to be used by them for the purposes for which the same were appropriated; but not more than five hundred dollars of such proceeds shall be expended upon any highway or bridge, except in pursuance of a contract made by a contractor with the commissioners of highways of the town, or other officer designated by the board of supervisors, and approved by the town board, no member of which shall be interested therein. If such highway or bridge shall be wholly or partly within the limits of an incorporated village, the consent of a majority of the trustees of such village shall be necessary for the action of the board of supervisors as herein provided.

§ 71. **Streets outside of city limits.**—When any territory in a county containing an incorporated city of one hundred thousand inhabitants, excepting the towns of Flatbush and New Lots in the county of Kings, has been mapped into streets and avenues pursuant to law, the board of supervisors may authorize the establishment of a plan for the grade of such streets and avenues, laying out, opening, grading, constructing, closing and change of line of any one or more of them, and provide for the assessment on property intended to be benefited thereby, and fixing assessment districts therefor, and for the levy, collection and payment of the amount of damages sustained and the charges and expenses incurred, or which may be necessary to incur in carrying out such provisions, but such last named power in regard to laying out, opening, grading, constructing and change of line, of such streets or avenues or defraying the expenses thereof, shall only be exercised on the petition of the property owners, who own more than one-half of the frontage on any such street

or avenue, or on a certificate of the town board and commissioners of highways of the town, that the same is, in their judgment, proper and necessary for the public interest. If the streets and avenues, in respect to which such action is proposed to be taken, shall lie in two or more towns, a like certificate shall be required of the town board and commissioners of highways of each town. Before making such certificate, such town board, or boards and commissioners of highways, shall give ten days' notice by publication in one of the daily papers of the county, and by conspicuously posting in six public places in each of such towns, of the time and place at which they will meet to consider the same, at which meeting the public, and all persons interested, may appear and be heard in relation thereto. No such street or avenue shall be laid out, opened or constructed, upon or across any lands acquired by the right of eminent domain, and held in fee for depot purposes by any railroad corporation, or upon or across any lands now held by a corporation formed for the purpose of improving the breed of horses, without the consent of such corporations. No town officer shall charge any thing for his services under this section, nor shall any charge be made against any such town or the property therein, for the expense of the publication of the notice herein required.

§ 72. Survey and records of highways.—The board may authorize and direct the commissioners of highways of any town, to cause a survey to be made, at the expense of the town, or\* any or all of the highways therein, and to make or complete a systematic record thereof, or to revise, collate and rearrange existing records of highways, and correct and verify the same by new surveys and to establish the location of highways by suitable monuments. Such records so made, or revised, corrected and verified, shall be deposited with the town clerk of the town, and shall thereafter be the lawful records of the highways which they describe; but shall not affect rights pending in any judicial proceeding commenced before the deposit of such revised records with the town clerk.

§ 73. Regulation of toll rates.—Such boards shall have power, by a vote of two-thirds of all the members elected to authorize an alteration, reduction or change of the rates of toll charged or received by any turnpike, plank or gravel road, or other toll road within such county, or by any bridge company or ferry within such county, or, if within more than one county, then by joint action with the supervisors of such counties, provided such alteration shall be asked for by the directors, trustees or owners of such road, bridge or ferry;

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\* So in the original.

but that no increase of toll shall be so authorized unless notice of intention to apply for such increase shall have been published in each of the newspapers published in such county, once in each week for six successive weeks next before the annual election of supervisors in such county; and any alteration in rates of toll authorized by any board of supervisors may be changed or modified by any subsequent board, on their own motion, by a like vote of two-thirds of all the members elected to such board; but nothing herein contained shall affect or abridge the powers of any city.

§ 74. **Highways in counties of more than 300,000 acres of unimproved land.**—The board may establish separate highway districts in counties containing more than three hundred thousand acres of unimproved unoccupied forest lands, for the purpose of constructing highways through such lands; such highway districts to be established upon the application of the owners of more than one-half of the non-resident lands therein. Any such highway district shall consist of contiguous tracts or parcels of land, and may include parts of one of more towns; and they may be changed, altered or abolished at any time by the board. Such board may appoint one or more commissioners to lay out and construct such highways in any such district, and prescribe the powers and duties, and direct the manner in which highway taxes shall be assessed, levied and collected upon the lands within the district, and the manner of expenditure thereof.

They may also authorize such commissioners to borrow money on such terms as they may deem just, but not exceeding the amount of ten years' highway taxes upon such lands; and may, for the purpose of repaying such loan, set apart and appropriate the highway taxes upon such lands, for a period not exceeding ten years from the time of making such loan.

§ 75. **Appropriation of certain non-resident highway taxes**—The board may, upon the application of the owners representing a majority in value, as shall be ascertained from the last annual assessment-roll of the real estate lying along the line of any highway, laid out through unimproved lands, in cases not provided for in the last preceding section authorize the appropriation of the non-resident highway tax on the lands lying along such line, for the improvement of such highways.

§ 76. **Balance of state appropriations**—The board may direct the expenditure of any non-resident highway or bridge tax, set apart by an act of the legislature, in counties wherein such non-resident

lands are situated, when the official life of commissioners appointed to receive and expend such taxes has expired.

§ 77. **Alteration of state roads.**—The board may authorize the commissioners of highways of any town in their county to alter or discontinue any road or highway therein, which shall have been laid out by the state under the same conditions that would govern their actions in relation to highways that have been laid out by local authorities.

§ 78. **Further powers.**—The board may make such other local and private laws and regulations concerning highways, alleys, bridges and ferries within the county, and the assessment and apportionment of highway labor or taxes therefor, not inconsistent with law, as it may deem necessary and proper, when the purposes of such laws and regulations can not be accomplished under the foregoing provisions, or the general laws of the state.

## ARTICLE V.

### COUNTY JAILS.

SECTION 90. Use of jails.

- 91. Rooms therein.
- 92. Custody and control of prisoners.
- 93. Food and labor.
- 94. Reading matter.
- 95. Record of commitments.
- 96. Commitment by United States courts.
- 97. Keepers to present calendars to courts.
- 98. Discharge if not indicted.
- 99. Suspension of habeas corpus.
- 100. Prisoner to be discharged if unable to pay fine.
- 101. Houses of detention for women, children and witnesses.
- 102. County work-houses.
- 103. Who may visit jails or work-houses.

§ 90. **Use of jails.**—Each county jail shall be used,

1. For the detention of persons duly committed to secure their attendance as witnesses in any criminal case;
2. For the detention of persons charged with crime, and committed for trial or examination;
3. For the confinement of persons duly committed for any contempt, or upon civil process.
4. For the confinement of persons convicted of any offense, other than a felony, and sentenced to imprisonment therein, or awaiting transportation under sentence to imprisonment in another county.

**§ 91. Rooms therein.**—Each county jail shall contain,

1. A sufficient number of rooms for the confinement of persons committed on criminal process, or detained for trial, or examination as witnesses in a criminal case, separately from prisoners under sentence ;

2. A sufficient number of rooms for the separate confinement of persons committed on civil process, or for contempt ;

3. A sufficient number of rooms for the solitary confinement of prisoners under sentence.

**§ 92. Custody and control of prisoners.**—Each sheriff shall receive and safely keep in the county jails of his county, every person lawfully committed to his custody, for safe-keeping, examination, or trial, or as a witness, or committed or sentenced to imprisonment therein, or committed for contempt. He shall not, without lawful authority, let any such person out of jail. Persons in custody on civil process, or committed for contempt, or detained as witnesses shall not be put or kept in the same room with persons detained for trial, or examination upon a criminal charge, or with convicts under sentence. Persons detained for trial or examination upon a criminal charge, shall not be put or kept in the same room with convicts under sentence.

A woman detained in jail upon a criminal charge, or as a convict under sentence, shall not be kept in the same room with a man ; and if detained on civil process, or for contempt, or as a witness, she shall not be put or kept in the same room with a man, except with her husband, in a room in which there are no other prisoners. All persons confined in a county jail shall, as far as practicable, be kept separate from each other, and shall be allowed to converse with their counsel, or religious adviser, under such reasonable regulations and restrictions, as the keeper of the jail may fix. Convicts under sentence shall not be allowed to converse with any other person, except in the presence of a keeper.

The keeper may prevent all other conversation by any other prisoner in the jail, when he shall deem it necessary or proper.

**§ 93. Food and labor.**—Prisoners detained for trial, and those under sentence, shall be provided with a sufficient quantity of plain but wholesome food, at the expense of the county ; but prisoners detained for trial may, at their own expense, and under the direction of the keeper, be supplied with any other proper articles of food. Such keeper shall cause each prisoner committed to his jail for imprisonment under sentence, to be constantly employed at hard labor

when practicable, during every day, except Sunday, and the board of supervisors of the county, or judge of the county, may prescribe the kind of labor at which such prisoner shall be employed; and the keeper shall account, at least annually, with the board of supervisors of the county, for the proceeds of such labor. Such keeper may, with the consent of the board of supervisors of the county, or the county judge, from time to time, cause such of the convicts under his charge as are capable of hard labor, to be employed outside of the jail in the same, or in an adjoining county, upon such terms as may be agreed upon between the keepers and the officers, or persons, under whose direction such convicts shall be placed, subject to such regulations as the board, or judge may prescribe.

§ 94. **Reading matter.**—Each keeper shall provide a bible to be kept in each room of the jail in his charge, and he shall permit the persons therein confined, to be supplied with other suitable and proper books and papers, and if practicable, he shall cause divine service to be conducted for the benefit of the prisoners, at least once each Sunday, if there shall be room in the prison that may be safely used for that purpose.

§ 95. **Record of commitments.**—Each keeper shall keep a daily record of the commitments and discharges of all prisoners delivered to his charge, which shall contain the date of entrance, name, offense, term of sentence, fine, age, sex, place of birth, color, social relations, education, secular and religious, for what and by whom committed, how discharged, trade or occupation, whether so employed when arrested, number of previous convictions.

§ 96. **Commitments by United States courts.**—Such keeper shall receive and keep in his jail every person duly committed thereto, for any offense against the United States, by any court or officer of the United States, until he shall be duly discharged; the United States supporting such person during his confinement; and the provisions of this article, relative to the mode of confining prisoners and convicts, shall apply to all persons so committed by any court or officer of the United States.

§ 97. **Keepers to present calendars to courts.**—Such keeper shall present to every court of oyer and terminer, and every court of sessions having a grand jury, to be held in his county, at the opening of the court, a calendar stating:

1. The name of every prisoner then detained in such jail.
2. The time when he was committed, and by virtue of what precept.



3. The cause of his detention.

§ 98. **Discharged if not indicted.**—Within twenty-four hours after the discharge of any grand jury by any such court, the court shall cause every person so confined in jail on a criminal charge, who shall not have been indicted, to be discharged without bail, unless satisfactory cause shall be shown for its further detention, or if the case may require, upon bail, until the meeting of the next grand jury in the county.

§ 99. **Suspension of habeas corpus.**—During the session of the court of oyer and terminer in any county, no person detained in a county jail of such county, \*no person detained in a county jail of such county\* upon a criminal charge, shall be removed therefrom by writ of habeas corpus, unless such writ shall have been issued by or shall be made returnable before such court.

§ 100. **Prisoner to be discharged if unable to pay fine.**—When any person shall be confined in a jail for the non-payment of a fine, not exceeding two hundred and fifty dollars, imposed for any criminal offense, and against whom no other cause of detention shall exist, on satisfactory proof being made to the county court of the county in which such prisoner may be confined, that he is unable, and has been ever since his conviction, to pay such fine, the court may in its discretion, order his discharge.

§ 101. **Houses of detention for women, children and witnesses.**—The board of supervisors of any county, except the county of Kings, may procure, by lease or purchase, a suitable place or places, other than the jail, for the safe and proper keeping, and care of women and children charged with crime not punishable by death or imprisonment in state prison for a term exceeding five years or with second offense, and persons detained as witnesses, to be termed houses of detention; and when so provided, any magistrate in the county shall commit women and girls, and boys under sixteen years of age, and all persons held as witnesses thereto, instead of the jail. The sheriff shall have the same charge and control of such house, and shall be entitled to the same compensation for the care and keeping of prisoners therein, as in the county jail.

§ 102. **County work-houses.**—The board of supervisors of any county may establish and maintain a work-house for the confinement of persons convicted within the county of crimes and criminal offenses, the punishment for which is imprisonment in the county jail, and may provide for the imprisonment and employment therein

\*So in the original.

of all persons sentenced thereto, and any court or judicial officer may sentence such person to such work-house instead of to the county jail.

§ 103. Who may visit jails and work-houses.—The following persons may visit at pleasure all county jails and work-houses: The governor and lieutenant-governor, secretary of state, comptroller and attorney-general, members of the legislature, judges of the court of appeals, justices of the supreme court and county judges, district attorneys and every member\* of the gospel having charge of a congregation in the town in which such jail or work-house is located. No other person not otherwise authorized by law shall be permitted to enter the rooms of a county jail or work-house in which convicts are confined, unless under such regulations as the sheriff of the county shall prescribe.

## ARTICLE VI.

### Dogs.

#### SECTION 110. Tax on dogs.

- 111. Rate of taxation when not fixed by the board.
- 112. Owner to deliver description.
- 113. Tax, how collected.
- 114. Application of proceeds of tax.
- 115. Collectors' fees.
- 116. When payment of tax to be proved.
- 117. Liability of owners of dogs for injuries.
- 118. Duties and powers of fence viewers.
- 119. Certificate to be evidence.
- 120. Duties of town board.
- 121. Tax to pay orders for sheep killed.
- 122. When owners shall refund.
- 123. Dogs chasing sheep to be killed.
- 124. Owner to kill dog after notice.
- 125. When justice may order dog killed.
- 126. Who deemed owner of dog.

§ 110. Tax on dogs.—Each board of supervisors may impose a tax on dogs within the several towns in its county, for the purpose of providing means to pay damages done to sheep by dogs, and make proper provision for the collection of such taxes. If they do not exercise the powers herein conferred, the following provisions, so far as they relate to the taxation of dogs and the manner of collecting the same, shall apply to such county and the towns therein.

§ 111. Rate of taxation when not fixed by the board.—Ex-

\* So in the original.

cept in the city of Albany, the county of Kings, the county of Westchester and the city of Buffalo, there shall be annually levied and collected the following tax on dogs over four months old: Upon every bitch owned or harbored by any one or more persons, or by any family, three dollars; upon every additional bitch owned or harbored by the same person or persons or family, five dollars; upon every dog other than a bitch owned or harbored by one or more persons, or by any family, fifty cents; and upon every additional dog, other than a bitch, owned or harbored by the same person or persons or family, two dollars.

§ 112. **Owner to deliver description.**—The owner and possessor of every dog liable to such tax, shall, whenever required by any assessor, deliver to him a written description of every such dog owned or possessed by him. For every neglect or refusal so to do, and for every false statement made in any description so furnished, he shall forfeit five dollars, to be recovered by the supervisor of the town.

§ 113. **Tax, how collected.**—The assessors of every town, city or ward, shall annex to the assessment-roll of real and personal estate therein, made by them annually, the name of each and every person liable to the tax imposed thereby, together with the number of bitches and dogs for which such person is assessed, and return the same to the supervisors of their respective towns, cities or wards, to be laid by each supervisor before the board of supervisors, to be assessed and collected in the same manner as other state, county and town taxes are collected; and if any person duly assessed, shall refuse or neglect to pay the tax so assessed, within five days after demand thereof, it shall be lawful for any person, and it shall be the duty of the collector to kill the dog so taxed.

§ 114. **Application of proceeds of tax.**—The collector of each town shall pay over the taxes so collected to the supervisor of the town, and the moneys so collected and paid over shall, in each town, constitute a town fund for paying the damages arising in such town, from dogs killed or injuring sheep; and such moneys, or the balance thereof, which shall remain in the hands of the supervisor of any town for the period of one year, may, by a vote of the majority of the electors of any town, at any town meeting, be appropriated for the purpose of building and repairing highways and bridges, or for the payment of the contingent expenses of such town.

§ 115. **Collector's fees.**—Each collector shall be allowed to retain a commission of ten dollars on every hundred dollars collected,

and at that rate upon all sums collected by him pursuant to this article, and upon filing his affidavit of the fact with the supervisor, be entitled to retain, as a further compensation from the moneys collected by him, the sum of one dollar for every dog or bitch killed by him under the provisions of this article.

§ 116. **When payment of tax to be proved.**—In any action brought for the killing of any dog, it shall be incumbent on the plaintiff in such action to prove that the tax imposed upon such dog if any, by the provisions of this article has been paid.

§ 117. **Liability of owners of dogs for injuries.**—The owner or possessor of any dog that shall kill or wound any sheep or lambs shall be liable for the value of such sheep or lamb to the owner thereof, without proving notice to the owner or possessor of such dog, or knowledge by him that his dog was mischievous or disposed to kill sheep.

§ 118. **Duties and powers of fence viewers.**—The owner of any sheep or lambs that may be killed or injured by dogs, may apply to any two fence viewers of the town, village or city, where such sheep or lambs were killed or injured, who shall inquire into the matter, and examine witnesses in relation thereto, and if they shall be satisfied that the same were killed by dogs, and in no other way, they shall certify such fact, the number of sheep killed, and the number injured, the value of the sheep killed or injured immediately previous to such killing or injury, the value of the sheep after being so killed or injured, together with the amount of their fees.

§ 119. **Certificate to be evidence.**—Such certificate shall be presumptive evidence of the facts therein contained, in any civil action or proceeding.

§ 120. **Duties of town board.**—Such certificate shall be presented to the town board at its second annual meeting for audit; and if such board shall be satisfied by the oath of the person claiming such damages that he has not been able to discover the owner or possessor of the dog or dogs, by which such damage was done, or that he has failed to recover his damages of such owner or possessor, it shall give an order on the supervisor of the town for the amount which it shall allow, who shall pay such order out of the funds arising from the provisions of this article.

§ 121. **Tax to pay orders for sheep killed.**—Whenever the amount of the orders for damages, given by the town board to the owners of sheep killed or injured by dogs, shall exceed the amount of the dog fund in the hands of the supervisor of such town, the

board of supervisors may add to the accounts of such town, the amount of such orders then due and unpaid ; but such sum shall in no case exceed the amount theretofore received into the dog fund of the town, and diverted therefrom, for the purpose of building and repairing highways and bridges, or for the payment of contingent expenses of such town, for the three years next preceding the date of such orders.

§ 122. **When owner shall refund.**—If, after receiving the amount of such damages from the supervisor, the owner of the sheep so killed or injured shall receive or recover the value or any part thereof, from the owner or possessor of the dog or dogs doing the damage, he shall repay to the supervisor the sum so recovered. In case of his refusal or neglect, the supervisor shall bring an action therefor against him in the name of the town, which sum, when received, shall be returned to the dog fund of the town.

§ 123. **Dogs chasing sheep to be killed.**—Any person may kill any dog which he shall see wrongfully chasing, worrying or wounding any sheep.

§ 124. **Owner to kill dog after notice.**—The owner or possessor of every dog, to whom notice shall be given of any injury done by his dog to any sheep, or of his dog having chased or worried any sheep, shall, within forty-eight hours after such notice, cause such dog to be killed ; for every neglect so to do, he shall forfeit two dollars and fifty cents, and the further sum of one dollar and twenty-five cents for every forty-eight hours thereafter, until his dog shall be killed, unless it shall satisfactorily appear to the court before which an action shall be brought for the recovery of the said penalties, that it was not in the power of such owner or possessor to kill such dog.

§ 125. **When justice may order dog killed.**—If any dog shall attack any person peaceably traveling on any highway, or his horse or team, and complaint thereof be made to a justice of the peace, such justice shall inquire into the complaint, and if satisfied of its truth, and that such dog is dangerous, he shall order the owner or possessor of such dog to kill him immediately. The owner or possessor of any dog, who shall refuse or neglect to kill him within forty-eight hours after having received such order, shall forfeit the sum of two dollars and fifty cents, and the further sum of one dollar and twenty-five cents for every forty-eight hours thereafter, until such dog is killed.

§ 126. **Who deemed owner of dog.**—Every person in possession

of any dog, or who shall suffer any dog to remain about his house for the space of twenty days, previous to the assessment of a tax, or previous to any injury, chasing or worrying of sheep, or any such attack made by a dog, shall be deemed the owner of the dog, for all the purposes of this article.

## ARTICLE VII.

### COUNTY TREASURERS.

**SECTION 140.** Election, appointment, term of office and undertaking of county treasurer.

- 141. General powers and duties.
- 142. Time for making report extended.
- 143. Designate banks of deposit.
- 144. Depositary to give undertaking.
- 145. Treasurer not relieved from liability.
- 146. Moneys drawn, for what claims.
- 147. Delivery of books and funds to successor.
- 148. Penalty for neglect to report.
- 149. Extend the time for the collection of taxes.

**§ 140.** Election, appointment, term of office, and undertaking of county treasurer.—There shall continue,

1. To be elected in each of the counties, a county treasurer, who shall hold his office for three years from and including, in the county of Kings, the first Tuesday of August, in the county of Monroe, the first Tuesday of October, and in the other counties the first day of January, succeeding his election, and until his successor is duly elected and qualified;

2. To be appointed by the board of supervisors, if in session, otherwise by the county judge, a county treasurer, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including, in the county of Kings, the first Monday of August, in the county of Monroe, the first Monday of October, and in the other counties the last day of December, succeeding his appointment, and until his successor shall be elected and qualified.

Every person elected or appointed to the office of county treasurer shall, before he enters upon the duties of his office, and if appointed within fifteen days after notice thereof, give an undertaking to the county with three or more sufficient sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk, otherwise with the approval of the county judge and county clerk, and in such sum as such board or judge and clerk approving the same shall direct, to the effect that such person shall faithfully ex-



ecute the duties of his office, and shall pay over according to law, and account for all moneys, property and securities, which shall come to his hands as treasurer and render a just and true account thereof to the board of supervisors, when required; and obey all orders and directions of a competent court relating thereto. When, in the opinion of the board of supervisors, the moneys intrusted to such person as treasurer shall be unsafe, or the surety insufficient, such board may require from such treasurer a new or further undertaking, to the same effect as at first, and with like sureties; and if such county treasurer shall fail to renew such undertaking as required within twenty days after he shall be notified by such board of such request, such omission shall work a forfeiture of his office, and the same shall become vacant. Such undertaking, with the approval indorsed thereon shall be filed in the office of the county clerk. The sureties, and county therein named, shall be liable to the state for the payment to the state treasurer, according to law, of all moneys belonging to the state, which shall come into his hands as county treasurer; and for the rendering of a just and true account thereof to the state comptroller.

§ 141. General powers and duties.—The county treasurer shall :

1. Receive all moneys belonging to the county, and all other moneys by law directed to be paid to him, and apply them, and render an account thereof, as required by law.

2. Keep a true account of the receipt and expenditure of all such moneys, in books prepared for the purpose, at the expense of the county.

3. Quarterly, and at such other times as the board of supervisors shall by resolution require, make a true, written statement of his accounts generally, verified by his oath to be in all respects true, and file the same with the clerk of the county, and transmit a copy thereof by mail to the comptroller and state treasurer, which statement shall be published as soon thereafter as may be, in the newspapers designated by the board of supervisors for the publication of the session laws in such county.

4. On or before the first day of March in each year transmit to the comptroller a statement of all moneys received by him during the preceding year for penalties belonging to the people of the state; and at the same time, pay to the treasurer of the state, the amount of such penalties, after deducting his compensation, in the same manner as state taxes are directed to be paid.

5. On or before the fifteenth day of April in each year pay to the treasurer of the state one-half of the state tax raised and paid over to him; and on or before the fifteenth day of May, the other half, retaining the compensation to which he may be entitled, which shall not in any case exceed the sum of two thousand dollars. If any county treasurer shall not pay over the state tax as herein directed, the comptroller shall charge on all sums withheld, such rate of interest as shall be sufficient to repay all expenditures incurred by the state in borrowing money, equivalent to the amount so withheld, and such additional rate as he shall deem proper, not exceeding ten per cent, from the first day of April in each year, which shall be regarded as funds in the hands of the county treasurer, belonging to the state, and for which his sureties and county shall be liable.

6. Within ten days after the first day of July in each year, make and file in the office of the clerk of his county, a special report, which shall contain a statement of all moneys or securities in his hands belonging to infants, or other persons, for whom invested, and how invested, with a particular description of such securities, containing a statement of the amount due thereon for principal and interest, with a statement of his account with each infant, up to the first day of July preceding the date of such report, the amount of fees charged by him, the amount in his hands, invested and uninvested, and to whom the same belongs; and if he has in his hands any money not invested, such report shall state the amount thereof, the length of time the same has been in his hands uninvested, and the reasons therefor; and whether the moneys so uninvested are for principal and interest, and the length of time any principal sum thereof shall have remained so uninvested, during the year preceding the date of such report; which report he shall verify to be in all respects true;

7. Exhibit to the board of supervisors, at their annual meeting, or whenever they direct, all his books and accounts, and all vouchers relating thereto, to be audited and allowed.

§ 142. **Time for making report extended.**—The time for making and filing any report herein required, may be extended twenty days by a justice of the supreme court, upon good cause shown; but no order shall be made, unless notice of the application of the same shall have been served on the district attorney of the county; and no such order shall be of any force or effect, until the original order signed by the justice, with the papers on which the same was granted, shall have been filed in the office of the county clerk.

§ 143. **Designate banks of deposit.**—Each county treasurer shall, within twenty days after he shall have entered upon the duties of his office, except in counties whose board of supervisors shall otherwise direct, designate by written instrument in duplicate, one copy of which shall be filed in the office of the county clerk, and the other in the office of the state treasurer, one or more good and solvent banks, bankers, or banking associations, in such county; or if there shall be no such, then in an adjoining county within the state, for the deposit of all moneys received by him as such treasurer and agree with such bank or banks, banker or bankers, or banking associations, upon the rate of interest to be paid on the moneys so deposited. The accrued interest thereon, shall as often as once in six months, be credited by such depositary to the account of such county treasurer, for the use of his county; and he shall deposit with such depositary, or depositaries, at least once in each week, and in a county containing a city having more than ten thousand inhabitants, daily, all such moneys so received by him; but in no county having a city containing more than twenty thousand inhabitants, shall any bank, banker, or banking association, be selected as such depositary, which shall not have an unimpaired capital stock, of at least one hundred thousand dollars. But nothing herein shall limit the power of any court or officer, by whose direction any moneys shall be paid over to, or received, by such treasurer, to direct in relation to the custody or investment thereof, or the disposition to be made of the interest thereon; and no interest received from any moneys so deposited which are not received for some public use, shall belong to the county.

§ 144. **Depositary to give undertaking.**—Each bank, banker, or banking association, so designated, shall, for the benefit and security of the county, and before receiving any such deposit, give to the county a good and sufficient undertaking, with two or more sureties to be approved by the county judge of the county in which such bank, banker, or banking association, shall be located, the chairman of the board of supervisors of the county of which such treasurer is an officer, and such treasurer, or any two of them. Such undertaking shall specify the amount which such treasurer shall be authorized to have on deposit at any one time, with such depositary, and shall be to the effect that such depositary shall faithfully keep and pay over on the order, or warrant, of such treasurer, or on any other lawful authority, such deposits, and the agreed interest thereon; and for the payment of such bonds or coupons, as by their

terms are made payable at a bank or banks, for the payment of which a deposit shall be made by such treasurer with such depositary. Such undertaking shall be filed by the clerk of the board of supervisors with the clerk of the county.

§ 145. **Treasurer not relieved from liability.**—Such designation and deposit of moneys shall not release the treasurer, or his sureties, from any liability in relation to such moneys, or in any manner affect such liability; but any default by such depositary, shall be deemed a default of such treasurer, and he and his sureties shall be liable therefor.

§ 146. **Moneys drawn, for what claims.**—The county treasurer shall draw the moneys so deposited only for the payment of claims ordered to be paid by the board of supervisors, or other lawful authority, or of salaries of county officers, or pursuant to the lawful direction of some court; and if he shall draw or appropriate any money for any other purpose, it shall be deemed a malfeasance in office, and cause for removal therefrom. Nothing herein shall prevent such county treasurer from transferring any such moneys from one depositary to another, which shall have duly qualified by giving security as herein provided.

§ 147. **Delivery of books and funds to successor.**—When the right of a county treasurer to his office expires, the books and papers belonging to the office, and all moneys in his hands by virtue thereof, shall, upon his oath, or if not living, upon the oath of his executor or administrator, be delivered to his successor. Any person violating this section shall forfeit to the county the sum of twelve hundred and fifty dollars. Such successor may recover such forfeitures, books, papers or money due, by action or other legal proceedings, in the name of his county, upon the official undertaking of such former county treasurer, or as otherwise authorized by law.

§ 148. **Penalty for neglect to report.**—If a county treasurer shall neglect to make any report or statement herein required of him, except as herein otherwise provided, he shall forfeit to the county a sum to be determined by the jury or court before whom the trial is had, not less than one hundred nor more than five hundred dollars, to be recovered by the district attorney, by action in the name of the county, against such treasurer and his sureties, or one or more of them.

§ 149. **Extension of time for the collection of taxes.**—The county treasurer may extend the time for the collection of taxes in any town or ward, but no extension shall be permitted until the

collector of taxes of the town, city or ward in which such extension shall be asked shall pay over to the county treasurer all the taxes collected by him, and renew his undertaking as the supervisor of his town shall approve, and furnish evidence by his oath, and other competent testimony, if any, as such treasurer shall require, that he has been unable, for cause stated, to collect all the taxes within the time required by his warrant; but such extension shall not in any case be made beyond the first day of April in any year, unless ninety per cent of such taxes shall have been collected and paid over to him.

## ARTICLE VIII.

### COUNTY CLERKS.

**SECTION 160.** Election, appointment, term of office and undertaking of county clerk.

161. General powers and duties.

162. Deputy clerk.

163. Duties of deputy.

164. Statement to board of supervisors.

165. Business hours in clerk's office.

**§ 160. Election, appointment, term of office and undertaking of county clerk.**— There shall continue,

1. To be elected in each of the counties a county clerk, who shall hold his office for three years from and including the first day of January succeeding his election :

2. To be appointed by the governor, a county clerk, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election after the happening of the vacancy.

Every person elected or appointed to the office of county clerk, shall, before he enters on the duties of his office, and if appointed, within fifteen days after notice thereof, execute an undertaking to the county, with at least two sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk of the board, otherwise with the approval of the county judge, or a justice of the supreme court residing in the county, to the effect that he will faithfully execute and discharge the duties of county clerk, and account for all moneys deposited with him pursuant to law, or the order of any court, or by his predecessor in office, and pay them over as required by law, or directed by such order.

**§ 161. General powers and duties.**— The county clerk shall:

1. Have the custody of all books, records, deeds, parchments, maps and papers, deposited in his office in pursuance of law, and attend to their arrangement and preservation.

2. Provide at the expense of the county, all necessary books for recording all papers, documents or matters authorized by law to be recorded in his office.

3. When a certificate of election, or appointment to any county office, or revocation thereof, is received at his office give immediate notice thereof, at the expense of the county, to every person named therein. When any other commission or appointment to office, or order of removal from office is received at his office, give immediate notice thereof, at the expense of the state, to every person named therein.

4. Give immediate notice to the governor, at the expense of the state, when there is a vacancy in any county office which he is authorized to fill; and the names of all persons elected or appointed to any such office who have neglected, within the time required by law, to file the constitutional oath of office, or the undertaking severally required of them; and on or before the fifteenth day of January in each year, the names of all persons elected or appointed to a county office in his county during the preceding year, who have duly qualified.

5. On or before the first day of January in each year, report to the secretary of state, at the expense of the state, the names of all corporations whose certificates of incorporation have been filed in his office during the previous year.

6. Keep in his office a book, free at all times to public inspection, in which shall be entered all fees charged or received by him for any official service, the time of receiving it, its nature, and the persons for whom rendered.

§ 162. Deputy clerk.— Every county clerk shall, within ten days after entering upon the duties of his office, make under his hand and seal, and record in his office, a written appointment of some suitable person to be deputy clerk of his county, to hold during the pleasure of the clerk. When such deputy is temporarily absent, disqualified, or disabled, the clerk shall appoint some one of his assistants to act as deputy, for a period not exceeding thirty days, and without any additional compensation. Before such deputy enters on his duties as such, he shall take the constitutional oath of office. If there shall be no county clerk, or deputy county clerk, or assistant authorized to act as deputy, the county judge may designate



collector of taxes of the town, city or ward in which such extension shall be asked shall pay over to the county treasurer all the taxes collected by him, and renew his undertaking as the supervisor of his town shall approve, and furnish evidence by his oath, and other competent testimony, if any, as such treasurer shall require, that he has been unable, for cause stated, to collect all the taxes within the time required by his warrant; but such extension shall not in any case be made beyond the first day of April in any year, unless ninety per cent of such taxes shall have been collected and paid over to him.

## ARTICLE VIII.

### COUNTY CLERKS.

**SECTION 160.** Election, appointment, term of office and undertaking of county clerk.

161. General powers and duties.

162. Deputy clerk.

163. Duties of deputy.

164. Statement to board of supervisors.

165. Business hours in clerk's office.

**§ 160. Election, appointment, term of office and undertaking of county clerk.**— There shall continue,

1. To be elected in each of the counties a county clerk, who shall hold his office for three years from and including the first day of January succeeding his election :

2. To be appointed by the governor, a county clerk, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election after the happening of the vacancy.

Every person elected or appointed to the office of county clerk, shall, before he enters on the duties of his office, and if appointed, within fifteen days after notice thereof, execute an undertaking to the county, with at least two sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk of the board, otherwise with the approval of the county judge, or a justice of the supreme court residing in the county, to the effect that he will faithfully execute and discharge the duties of county clerk, and account for all moneys deposited with him pursuant to law, or the order of any court, or by his predecessor in office, and pay them over as required by law, or directed by such order.

**§ 161. General powers and duties.**— The county clerk shall :

1. Have the custody of all books, records, deeds, parchments, maps and papers, deposited in his office in pursuance of law, and attend to their arrangement and preservation.

2. Provide at the expense of the county, all necessary books for recording all papers, documents or matters authorized by law to be recorded in his office.

3. When a certificate of election, or appointment to any county office, or revocation thereof, is received at his office give immediate notice thereof, at the expense of the county, to every person named therein. When any other commission or appointment to office, or order of removal from office is received at his office, give immediate notice thereof, at the expense of the state, to every person named therein.

4. Give immediate notice to the governor, at the expense of the state, when there is a vacancy in any county office which he is authorized to fill; and the names of all persons elected or appointed to any such office who have neglected, within the time required by law, to file the constitutional oath of office, or the undertaking severally required of them; and on or before the fifteenth day of January in each year, the names of all persons elected or appointed to a county office in his county during the preceding year, who have duly qualified.

5. On or before the first day of January in each year, report to the secretary of state, at the expense of the state, the names of all corporations whose certificates of incorporation have been filed in his office during the previous year.

6. Keep in his office a book, free at all times to public inspection, in which shall be entered all fees charged or received by him for any official service, the time of receiving it, its nature, and the persons for whom rendered.

§ 162. Deputy clerk.— Every county clerk shall, within ten days after entering upon the duties of his office, make under his hand and seal, and record in his office, a written appointment of some suitable person to be deputy clerk of his county, to hold during the pleasure of the clerk. When such deputy is temporarily absent, disqualified, or disabled, the clerk shall appoint some one of his assistants to act as deputy, for a period not exceeding thirty days, and without any additional compensation. Before such deputy enters on his duties as such, he shall take the constitutional oath of office. If there shall be no county clerk, or deputy county clerk, or assistant authorized to act as deputy, the county judge may designate

in writing, to be recorded in the county clerk's office, a suitable person to act as county clerk, with all the powers, duties and privileges of the office, and subject to the liabilities thereof, until a county clerk shall have been elected, or appointed, and qualified.

§ 163. **Duties of deputy.**— Such deputy shall perform all the duties of the clerk when the clerk shall be absent from his office, or shall be incapable of performing the duties thereof, or when the office shall become vacant until it shall be filled, except that of deciding upon the sufficiency of sureties, which duty shall devolve upon the county judge.

§ 164. **Statement to board of supervisors.**— Every county clerk shall present to the board of supervisors of his county, upon the first day of their annual meeting, a statement, verified by his oath to be true, showing for the year preceding the first day of January:

1. The amount of all fees charged or received for searches, and for certificates thereof;

2. The amount of all fees charged or received for recording any documents in his office, and for certificates thereof;

3. The amount of all sums charged or received for services rendered the county;

4. The amount of all sums charged or received for official services;

5. The sums paid by him for assistance, fuel, lights, stationery, and other incidental expenses, the names of the persons paid, and the items thereof; but he shall not make any charge against the county for fuel or lights for his office, or for stationery, except record-books, and stationery furnished by him for courts held in his county.

§ 165. **Business hours in clerk's office.**— Clerks of counties and courts of record, shall respectively keep open their offices for the transaction of business every day in the year, except Sundays and other days and half-days declared by law to be holidays or half-holidays, between the thirty-first day of March and the first day of October, from eight o'clock in the forenoon to six o'clock in the afternoon, and between the thirtieth day of September and the first day of April, from nine o'clock in the forenoon to five o'clock in the afternoon.

ARTICLE IX.

SHERIFFS AND CORONERS.

**SECTION 180.** Election, appointment and terms of office of sheriffs and coroners and the undertakings of sheriffs.

- 181. Under-sheriffs.
- 182. Deputies.
- 183. Custody of jails.
- 184. Sheriff's offices.
- 185. Fees for services for the state.
- 186. Removal of sheriff for non-payment of moneys.
- 187. When a coroner to act as sheriff.
- 188. When other designations to be made.
- 189. When county judge to appoint.
- 190. General provisions.

§ 180. Election, appointment and term of office of sheriffs and coroners, and the undertakings of sheriffs.—There shall continue,

1. To be elected in each of the counties a sheriff and four coroners, who shall respectively hold their office for three years from and including the first day of January succeeding their election ;

2. To be appointed by the governor, a sheriff, or a coroner, when a vacancy shall occur in either of such offices, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election thereafter, at which such vacancy can be lawfully filled.

Every person elected or appointed to the office of sheriff shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the county clerk of his county, a joint and several undertaking to the county, approved by such clerk, to the effect that such sheriff will, in all things, perform and execute the office of sheriff of his county during his continuance therein, without fraud or deceit. Such undertaking shall be filed in the office of the county clerk ; and the clerk shall, at the time of his approval thereof, examine each surety thereto under oath ; and he shall not approve of such undertaking, unless it shall appear on such examination that such sureties are jointly worth at least fifteen thousand dollars over and above all debts whatever ; which examination, subscribed by the sureties, shall be indorsed on or attached to the undertaking ; but the clerk shall determine the sufficiency of each surety. In the same manner the security shall be renewed within the twenty days after the first

Monday of January in each year subsequent to that in which he shall have entered upon the duties of his office.

§ 181. **Under-sheriffs.**—Each sheriff shall, within ten days after he enters on the duties of his office, appoint some proper person under-sheriff of his county, to hold during his pleasure. When a vacancy shall occur in the office of sheriff, the under-sheriff shall, in all things, execute the duties of the office as sheriff, until a sheriff shall be elected or appointed and duly qualified; and any default or misfeasance in the office of such under-sheriff in the mean time, as well as before, shall be deemed to be a breach of the undertaking given by the sheriff who appointed him and also a breach of the undertaking executed by such under-sheriff, to the sheriff by whom he was appointed.

§ 182. **Deputies.**—Such sheriff may appoint such and so many deputies as he may deem proper, not exceeding one for every three thousand inhabitants of the county; any person may also be deputed by any sheriff or under-sheriff by written instrument, to do particular acts. Every appointment of an under-sheriff or of a deputy sheriff shall be in writing under the hand and seal of the sheriff and filed and recorded in the office of the clerk of the county; and every such under-sheriff or deputy sheriff shall, before he enters upon the execution of the duties of his office take the constitutional oath of office; but this last provision shall not extend to any person who may be deputed by any sheriff or under-sheriff to do a particular act only.

§ 183. **Custody of jails.**—Each sheriff shall have the custody of the jails of his county and the prisoners therein and such jails shall be kept by him, or by keepers appointed by him, for whose acts he shall be responsible.

§ 184. **Sheriff's offices.**—Every sheriff shall keep an office in some proper place in the city or village in which the county courts of his county are held, of which he shall file a notice in the office of the county clerk. If there be more than one place of holding such courts, the notice shall specify in which place his office will be kept, or it may specify that an office will be kept in all such places. Every sheriff's office shall be kept open, except Sundays and other days and half-days declared by law to be holidays or half-holidays, from eight o'clock in the morning until nine o'clock in the evening. Every notice or other paper required to be served on any sheriff may be served by leaving the same at the office designated by him in such notice, during the days and hours for which he is required to keep such office open; but if there be any person belonging to

such office therein, such notice or paper shall be delivered to such person, and every such service shall be deemed equivalent to a personal service on such sheriff.

§ 185. **Fees for service for the state.**—When a sheriff shall be required by any statute to perform any service in behalf of the people of this state, and for their benefit, which shall not be made chargeable by law to his county, or to some officer, body or person, his account for such services shall be audited by the comptroller and paid out of the state treasury.

§ 186. **Removal of sheriff for non-payment of moneys.**—When a sheriff shall be committed to the custody of any other sheriff, or to any coroner by virtue of an execution or attachment for the non-payment of moneys received by him by virtue of his office, and shall remain so committed for the space of thirty days successively, such facts shall be presented to the governor by the officer in whose custody such sheriff may be, to the end that such sheriff may be removed from office.

§ 187. **When a coroner to act as sheriff.**—When a vacancy shall occur in the office of sheriff, and there shall be no under-sheriff of the county then in office, or the office of such under-sheriff shall become vacant, or he become incapable of executing the duties of the same before another sheriff of the same county shall be elected or appointed and qualified, and there shall be more than one coroner of such county then in office, the county judge of such county shall forthwith designate one of such coroners to execute the duties of the office of sheriff of the county, until a sheriff thereof shall be elected or appointed and qualified. Such designation shall be by a written instrument, signed by the judge, and filed in the office of the clerk of the county, and the clerk shall immediately give notice thereof to such coroner. Within six days after receiving such notice, such coroner shall execute a joint and several undertaking, with the same number of sureties, to be approved in the same manner and be subject in all respects to the same regulations as the security required by law from the sheriff of such county. After the execution and filing of such undertaking in the clerk's office, such coroner shall execute the duties of the office of sheriff of the same county until a sheriff shall be duly elected or appointed and qualified.

§ 188. **When other designations to be made.**—When the coroner so designated shall not, within the time specified, give the security required of him, the county judge shall, in like manner, designate another coroner of the county to assume the office of sheriff,



and, if necessary, he shall make successive designation until all the coroners of the county shall have been designated to assume such office; and all the provisions contained in the last preceding section shall apply to every such designation and to the coroner named therein. If such vacancy shall occur when there shall be but one coroner of the county then in office, he shall be entitled to execute the duties of the office of sheriff therein until a sheriff shall be duly elected or appointed and qualified; but before he enters upon the duties of such office, and within ten days after the happening of the last vacancy in the office of the sheriff and under-sheriff, he shall execute with sureties a joint and several undertaking, the same as is required by law from a sheriff; and such undertaking shall be subject in all respects to the same regulations as the security required from the sheriff.

§ 189. **When county judge to appoint.**—If such coroner so in office on the happening of such vacancies shall neglect or refuse to execute such undertaking within the time required, or if all the coroners, where there are more than one in office in such event, shall successively neglect or refuse to execute the undertaking within the time required, the county judge shall appoint some suitable person to execute the duties of the office of sheriff in his county, until a sheriff therein shall be duly elected or appointed and qualified. Such appointment shall be made and filed in the same manner as the above designations are made and filed, and the clerk shall forthwith give notice thereof to the person so appointed, who shall, within six days thereafter, and before he enters upon the duties of his office, give such security as is required by law of sheriffs, and subject to the same regulations; and thereupon such person shall execute the duties of the office of sheriff of the county until a sheriff shall be duly elected or appointed, and qualified.

§ 190. **General provisions.**—Until some coroner designated, or some person appointed by the judge shall have executed the security above required, or until a sheriff of the county shall have been duly elected or appointed, and qualified, the coroner or coroners of the county in which such vacancies shall exist shall execute the duties of the office of sheriff therein; and when any under-sheriff, coroner, coroners or other person shall execute the duties of the office of sheriff, pursuant to either of the foregoing provisions, the person so executing the same shall be subject to all the duties, liabilities and penalties imposed by law upon the sheriff duly elected and qualified, and he shall be entitled to the same compensation.

ARTICLE X.

DISTRICT ATTORNEYS.

SECTION 200. Election, appointment; term of office and undertaking of district attorney.

201. Annual report.

202. Assistant district attorneys.

203. In Erie county.

204. Employment of counsel by district attorney.

§ 200. Election, appointment, term of office and undertaking of district attorney.— There shall continue,

1. To be elected in each of the counties a district attorney, who shall hold his office for three years from and including the first day of January succeeding his election;

2. To be appointed by the governor, a district attorney, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election thereafter at which such vacancy can be lawfully filled.

3. Except in the county of Kings, every person elected or appointed to the office of district attorney, shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver, to the county clerk of his county, a joint and several undertaking to the county, approved by the county judge, with two or more sufficient sureties, being resident freeholders, to the effect, that he will faithfully account for and pay over according to law, or as the court may direct, all moneys that may come into his hands as such district attorney.

§ 201. Annual report.— Every district attorney shall, on or before the first Tuesday in October, annually file in the office of the county treasurer a written account verified by his oath to be true, of all moneys received by him by virtue of his office during the preceding year; and shall, at the same time, pay over any balances thereof to the county treasurer. If he shall refuse or neglect to account for and pay over such moneys as so required of him, the county treasurer shall prosecute him and his sureties for the same, in the name of and for the benefit of his county.

§ 202. Assistant district attorneys.— In any county having, according to the last preceding federal or state enumeration, more than seventy thousand inhabitants, the district attorney may, when authorized by the board of supervisors, appoint a suitable person, who must be a counselor-at-law, in this state, and a citizen and resi-

dent of the county to be his assistant. Every appointment of an assistant district attorney shall be in writing, under the hand and seal of the district attorney, and filed in the office of the county clerk; and the person so appointed, shall take and file with the clerk the constitutional oath of office, before entering upon his duties as such assistant district attorney. Every such appointment may be revoked by the district attorney making the same, which revocation shall be in writing and filed in the clerk's office. Such assistant district attorney may attend all criminal courts, and discharge any duties imposed by law upon, or required of the district attorney by whom he was appointed.

§ 203. In Erie county.—The district attorney of Erie county may appoint, in the manner provided in the last preceding section, and with like powers two assistants, to be called respectively the first and second assistant district attorneys, and a managing clerk, who shall severally take the constitutional oath of office before entering upon the duties thereof; and the district attorney shall be responsible for their acts. He may also appoint a person to act as interpreter at all sessions of the grand juries of the county of Erie, and of the city of Buffalo, whose compensation shall be fixed by the court in and for which such grand jury may be impaneled. The district attorney of Erie county shall be entitled to receive, in addition to his salary, all costs collected by him in actions and proceedings prosecuted and defended by him.

§ 204. Employment of counsel by district attorney.—The district attorney of any county in which a capital or other important criminal action is to be tried, with the approval in writing of the county judge of the county, which shall be filed in the office of the county clerk, may employ counsel to assist him on such trial; and the costs and expenses thereof, to be certified by the judge presiding at the trial, shall be a charge upon the county in which the indictment is found.

## ARTICLE XI.

### SUPERINTENDENTS OF THE POOR.

SECTION 210. Election, appointment, and terms of office of superintendents of the poor.

211. Undertaking.

§ 210. Election, appointment, and term of office of superintendents of the poor.—There shall continue to be elected or appointed in each of the counties one or more superintendents of

the poor as heretofore; but no supervisor of a town, or county treasurer, shall be elected or appointed to such office. The board of supervisors of any county having, or entitled to have three or more superintendents of the poor, may, at an annual meeting thereof, determine by resolution that thereafter only one county superintendent of the poor shall be elected; but no superintendent of the poor shall be elected or appointed in such county until the general election next preceding the expiration of the terms of the superintendents in office, or the office shall be vacant. The term of any superintendent in office, or of any person duly elected thereto on the passage of such resolution, shall not be affected thereby. Such board may also, in counties having and entitled to have but one superintendent of the poor, in like manner determine that thereafter three superintendents of the poor be elected for such county. After the passage of a resolution, as herein provided, the powers herein conferred shall not be again exercised within a period of five years. Such resolution shall not take effect until the next calendar year succeeding its adoption.

There shall continue,

1. To be elected annually in each of the counties so having and being entitled to three county superintendents, one county superintendent of the poor, who shall hold his office for three years from and including the first day of January succeeding his election, and until his successor is duly elected and qualifies;

2. To be appointed by the board of supervisors, if in session, otherwise by the county judge, a county superintendent of the poor, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding his appointment, and until his successor shall be elected and qualifies;

3. To be elected a county superintendent of the poor in a county when a vacancy shall occur in such office, and the term of which shall not expire on the last day of the next succeeding December, and the person so elected shall hold the office for such unexpired term, which shall be designated upon the ballots of the electors, or until his successor shall be elected and qualifies;

4. To be elected in each of the counties so having, and entitled to have but one superintendent, a superintendent of the poor, who shall hold his office for three years from and including the first day of January succeeding his election, and until his successor is duly elected and qualifies;

5. To be appointed by the board of supervisors, if in session, otherwise by the county judge, a superintendent of the poor, in a county having and being entitled to but one superintendent, when a vacancy shall occur in such office; and the person so appointed shall hold the office until and including the last day of December succeeding his appointment, and until his successor shall be elected and qualifies;

6. To be elected in the succeeding year after the board of supervisors of a county having but one superintendent of the poor, shall have adopted a resolution to have three superintendents, if the term of the superintendent in office expires with such year, three superintendents of the poor for such county, for the terms of one, two and three years respectively, which terms shall be respectively designated upon the ballots of the electors voting for such officers. If the term of the superintendent in office will not expire with such succeeding year, there shall be elected two superintendents of the poor for such county, for such terms, to be so designated upon the ballots of the electors voting for such officers, as will make the terms of one of the three superintendents expire with each succeeding year, and one superintendent of the poor shall hereafter be annually elected. Such persons so elected shall hold the office from and including the first day of January succeeding his election, and until and including the last day of December of the year in which his term shall so expire, and until his successor is duly elected and qualifies. When ballots are voted without designating the term, the first name on the ballot shall be deemed as intended for the full or longer term of the officer voted for; the second name for the next longer term, and the third name for the shorter term.

§ 211. **Undertaking.**—Every person elected or appointed to the office of superintendent of the poor shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the clerk of the county, to be filed in his office, his undertaking to the county, with two or more sufficient sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk; otherwise by the county judge of his county, or a justice of the supreme court of his judicial district, to the effect that he will faithfully discharge the duties of his office as such superintendent of the poor, and pay according to law all moneys that shall come into his hands as such superintendent, and render a just and true account thereof to the board of supervisors of his county.

ARTICLE XII.

COUNTY JUDGE, SURROGATE, SPECIAL COUNTY JUDGE, SPECIAL  
SURROGATE AND JUSTICES OF SESSIONS.

SECTION 220. Election, appointment and term of office of county judge, surrogate,  
special county judge and special surrogate, and designation of  
justices of sessions.

221. Creation and undertaking of surrogate.

222. Compensation of county judges and surrogates.

223. When and how paid.

§ 220. Election, appointment and term of office of county judge, surrogate, special county judge and special surrogate, and designation of justices of sessions.—There shall continue to be elected in each of the counties now having such officers.

1. A county judge and a surrogate, who shall severally hold the office for six years from and including the first day of January succeeding his election.

2. A special county judge and a special surrogate, pursuant to the several acts of the legislature creating and respectively defining the terms and duties thereof.

3. There shall continue to be appointed by the governor, by and with the consent of the senate, if in session, a county judge, surrogate, special county judge or special surrogate, when a vacancy shall occur in either of such offices, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election thereafter at which such vacancy can be lawfully filled.

4. There shall continue to be designated two justices of the peace of the county, having at least one year to serve from the first day of January succeeding their designation, to be justices of sessions for the county during the calendar year commencing on the first day of January succeeding their designation. Each elector may place upon his ballot at each general election under the words "for sessions," the name of one such justice of the peace and the two justices of the peace representing the two principal political parties into which the electors of the county are divided receiving the greatest number of votes shall be designated as such justices of the sessions for such term.

§ 221. Creation and undertaking of surrogate.—The board of supervisors of any county, except Kings, having a population exceeding forty thousand, may, by resolution at a meeting thereof, determine that the office of surrogate therein shall be a separate office, and provide for the election of such officer therein. The clerk of



the board shall immediately deliver the resolution to the county clerk, who shall file the same in his office and, within ten days thereafter, transmit a certified copy thereof to the secretary of state; and thereafter a surrogate shall be elected for such county. Every person elected or appointed to the office of surrogate or county judge, where there is no separate office of surrogate, shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the county clerk of his county a joint and several undertaking, with two or more sureties being resident freeholders, to be approved by such clerk, to the effect that he will faithfully perform his duties as such surrogate, and apply and pay over all moneys and effects that may come into his hands as such surrogate in the execution of his office; which undertaking shall be immediately filed in the office of such county clerk.

§ 222. Compensation of county judges and surrogates.— The annual salaries of county judges and surrogates in the several counties, are fixed at the sums respectively set opposite the names of each county in the following schedule, to wit:

Subd.	NAME OF COUNTY.	Salary of county judge.	Salary of surrogate.
1....	Albany.....	\$4, 500 00	\$4, 000 00
2....	Allegany.....	2, 750 00	
3....	Broome.....	3, 000 00	
4....	Cattaraugus.....	1, 500 00	1, 500 00
5....	Cayuga.....	2, 000 00	2, 000 00
6....	Chautauqua.....	2, 000 00	1, 600 00
7....	Chemung.....	3, 000 00	
8....	Chenango.....	3, 000 00	
9....	Clinton.....	1, 200 00	1, 800 00
10....	Columbia.....	2, 000 00	2, 500 00
11....	Cortland.....	2, 500 00	
12....	Delaware.....	2, 000 00	
13....	Dutchess.....	2, 000 00	2, 000 00
14....	Erie.....	5, 000 00	6, 000 00
15...	Essex.....	2, 500 00	
16....	Franklin.....	2, 000 00	
17....	Fulton.....	2, 250 00	
18....	Genesee.....	2, 500 00	
19....	Greene.....	2, 000 00	
20....	Hamilton.....	800 00	
21....	Herkimer.....	3, 000 00	
22....	Jefferson.....	1, 500 00	1, 500 00
23....	Kings.....	10, 000 00	10, 000 00

Subd.	NAME OF COUNTY.	Salary of county judge.	Salary of surrogate.
24....	Lewis .....	\$2,400 00	
25....	Livingston .....	3,000 00	
26. .	Madison .....	3,000 00	
27....	Monroe .....	5,000 00	\$4,500 00
28....	Montgomery .....	2,500 00	
29....	Niagara .....	1,500 00	1,500 00
30....	Oneida .....	4,000 00	3,500 00
31....	Onondaga .....	4,000 00	3,500 00
32....	Ontario .....	2,000 00	1,500 00
33....	Orange .....	1,500 00	2,500 00
34....	Orleans .....	2,000 00	
35....	Oswego .....	1,500 00	1,500 00
36....	Otsego .....	1,800 00	1,500 00
37 ...	Putnam .....	2,000 00	
38....	Queens .....	4,000 00	5,000 00
39....	Rensselaer .....	3,500 00	3,500 00
40....	Richmond .....	5,000 00	
41....	Rockland .....	3,600 00	
42....	St. Lawrence .....	1,750 00	1,750 00
43....	Saratoga .....	2,000 00	2,500 and \$500 for clerk hire.
44....	Schenectady .....	2,000 00	
45....	Schoharie .....	2,500 00	
46 ...	Schuyler .....	1,500 00	
47....	Seneca .....	1,500 00	
48....	Steuben .....	1,500 00	2,000 00
49....	Suffolk .....	1,500 00	2,500 00
50....	Sullivan .....	1,200 00	
51....	Tioga .....	2,500 00	
52....	Tompkins .....	2,500 00	
53....	Ulster .....	3,000 00	3,000 00
54....	Warren .....	3,000 00	
55....	Washington .....	1,200 00	1,500 00
56....	Wayne .....	2,000 00	
57....	Westchester .....	6,000 00	6,000 00
58....	Wyoming .....	2,500 00	
59....	Yates .....	1,500 00	

§ 223. When and how paid.—Such salaries, except in the county of Kings, shall be paid quarterly, by the county treasurer of the respective counties. When a county judge of one county shall hold a county court, or preside at a court of sessions, in any other county, he shall be paid the sum of five dollars per

day for his expense in going to, and from, and holding or presiding at such court, which shall be paid by the county treasurer of such other county, on the presentation of the certificate of the clerk of such court of the number of days; but no such compensation shall be paid, except in case of sickness or disability of the county judge of the county in which such court is held.

### ARTICLE III.

#### MISCELLANEOUS.

##### SECTION 230. County charges.

231. Compensation of public officers in Ulster county.

232. County charges, how paid.

233. Annual report of the county officers.

234. Recovery and disposition of moneys.

235. Official seals.

236. General provisions relating to county officers.

237. General provisions relating to official bonds and undertakings.

238. Laws repealed.

239. When to take effect.

§ 230. County charges.—The following are county charges :

1. Charges incurred against the county by the provisions of this chapter ;

2. All expenses necessarily incurred by the district attorney in criminal actions or proceedings arising in his county ;

3. The compensation of the county officers, their subordinates and assistants, which are payable by the county ;

4. The compensation of the criers of the courts of record within the county for attendance thereat, at three dollars per day ;

5. The compensation of the sheriff for the commitmend\* and discharge of his prisoners on criminal process within the county, and for summoning constables to attend court ;

6. Compensation allowed by law to constables for attending courts of record, and the compensation allowed by law to constables and other officers, for executing process on persons charged with a felony ; for services and expenses in conveying such persons to jail ; and for the service of subpoenas issued by the district attorney and for other services in relation to criminal proceedings and support of prisoners in transit, for which no specific compensation is prescribed by law, and which are not a town charge, as prescribed by article seven, of the town law ; but no charge for issuing or serving any subpoena in any criminal action or proceeding issued or served on

\* So in the original.

behalf of a defendant shall be allowed, unless otherwise ordered by the court in which the action or proceeding was pending ;

7. The expenses necessarily incurred in the support of persons charged with, or convicted of crimes, and committed to the jails of the county ;

8. The sums required by law to be paid to witnesses in criminal actions and proceedings ;

9. The moneys necessarily expended by any county officer in executing the duties of his office in cases in which no specific compensation for such services is provided by law ;

10. The accounts of the coroners of the county for such services as are not chargeable to the person employing them ;

11. The accounts of the county clerks, for the services and expenses incurred under the law respecting elections, other than for militia and town officers ;

12. The sums required to pay the bounties authorized by resolution of the board of supervisors, for the destruction of wild animals and noxious weeds ;

13. The compensation of the members of the board of supervisors ;

14. The charges and accounts for services rendered by justices of the peace in the examination of felons, and in other criminal proceedings as mentioned in section 165, of the town law, when not otherwise provided for ;

15. The expenses necessarily incurred, and sums authorized by law, or by the board of supervisors, pursuant to law, to be raised for any county purpose ;

16. The reasonable costs and expenses in proceedings before the governor for the removal of any county officer upon charges preferred against him, including the taking and printing of the testimony therein ;

17. All judgments duly recorded against a county ;

18. All damages recovered against, or costs and expenses lawfully incurred by a county officer in prosecuting or defending an action or proceeding brought by or against the county or such officer, for an official act done, when such act was done, or such action or proceeding was prosecuted or defended pursuant to law, or by authority of the board of supervisors ; and any such damages so recovered, or costs and expenses incurred by any such officers, for any act done in good faith in his official capacity, without any such authority, may be made a county charge by a majority vote of all the members elected thereto.

§ 231. **Compensation of public officers in Ulster county.**—There shall be allowed to the several public officers in the county of Ulster the following annual salaries to be paid quarterly :

1. To the superintendent of the poor fifteen hundred dollars ;
2. To the county treasurer, one thousand dollars ;

The board of supervisors shall not audit or allow to the sheriff of the county more than six thousand dollars in any year for his services and expenses ; nor to the clerk of the county more than twelve hundred dollars for his services and expenses in any one year.

§ 232. **County charges, how raised.**—The moneys necessary to defray the county charges of each county shall be levied on the taxable property in the several towns therein, in the manner prescribed in the general laws relating to taxes ; and in order to enable the county treasurer to pay such expenses as may become payable from time to time, the board of supervisors shall annually cause such sum to be raised in advance in their county, as they may deem necessary for such purpose.

§ 233. **Annual report of county officers.**—Each county officer who shall receive, or is authorized by law to receive, any money on account of fines or penalties or other matter in which his county, or any town or city therein, shall have an interest, shall annually make a written report to the board of supervisors of his county, verified to be true, bearing date the first day of November, stating the time when, and the name of every person from whom, such money has been received, the amount thereof, on what account received, and the sums remaining due and unpaid ; and if no such money has been received, his report shall so state. Such report shall be filed with the clerk of the board, on or before the fifth day of November ; and no officer shall be entitled to receive payment for his services, unless he shall file with the supervisors, or other officers performing their duties, his affidavit that he has made such report, and paid over all moneys which he is required to pay over, within ninety days after receiving any such money, such officers shall pay the same without any deduction to the treasurer of his county, who shall execute duplicate receipts therefor, one of which he shall deliver to the person paying the money, and attach the other to his annual report herein required ; but nothing herein shall be construed to apply to moneys received by any town or city officer in his official capacity, as such, specially appropriated for any town or city purpose.

§ 234. **Recovery and disposition of moneys.**—The district at

torney shall sue for and recover, in behalf of, and in the name of, his county, the money received by any officer for, or on account of, his county, or any town or city therein, and not paid to the county treasurer, as herein required. All moneys belonging to any town or city in such county, which shall be received by the county treasurer, shall be distributed to the several towns or cities entitled to the same, by resolution of the board of supervisors, which shall be entered in the minutes of its proceedings.

§ 235. **Official seals.**—The official seals of boards of supervisors of the several counties, county seal, county treasurer's seal, surrogate's seal, and the seal of register of deeds, shall continue to be the official seals, respectively, of such boards, county, treasurer, surrogate, and register of deeds, and used as such, respectively, when authorized by law. When any such seal shall be lost, destroyed, or become unfit for use, the board of supervisors of the county interested therein or not having such seal, shall cause a new seal or seals to be made at the expense of the county. A description of each of such seals, together with impressions therefrom, shall be filed in the office of the county clerk and in the office of the secretary of state, unless it has already been done. In counties having two county seats, a duplicate of the county seal shall be procured and kept at the county seat where the county clerk's office is not situated, at some place to be designated by the county clerk, and may be used by him the same as at his office.

§ 236. **General provisions relating to county officers.**—Elective officers shall be chosen at general elections. A person in office, when this act takes effect, shall continue to hold the same until the expiration of the term for which he was elected or appointed; and a person thereafter elected to any such office on or before entering upon the duties thereof, and a person thereafter appointed to any such office within ten days after notice thereof, and before entering upon the duties of his office, shall take and subscribe before the county clerk, or county judge of the county, the constitutional oath of office; and the same, with his certificate of election or appointment, shall be immediately filed in the office of the county clerk.

§ 237. **General provisions relating to official bonds and undertakings.**—Every undertaking required by this chapter must be executed by the officer or person in whose behalf it is given, and his sureties, and duly acknowledged or proven and certified, and the approval indorsed thereon. The parties executing the same shall be



jointly and severally liable, regardless of its form in that respect, for the damages sustained by reason of a breach thereof.

Every officer or board required to approve an undertaking may examine each surety thereto under oath, and shall not approve the same unless the sureties are freeholders of the state and jointly worth over and above their debts and liabilities at least double a sum which such officer or board may fix upon and insert in the undertaking as reasonably sufficient to indemnify the county, and every person who may be or become interested therein, or in any breach thereof.

Official bonds and undertakings, including the bonds of executors, administrators, guardians and trustees, required by law to be filed in the office of the county clerk or surrogate, shall also be recorded in such offices respectively, in a book to be provided and kept in each of such offices, to be designated "book of official bonds and undertakings." The county clerk and surrogate's clerk shall respectively be entitled to the same fees for such recording, as are allowed to county clerks for recording conveyances, except that in counties where the surrogate's clerk is a salaried officer he shall not be entitled to any fee for such services.

§ 238. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 239. When to take effect.—This chapter shall take effect immediately.

SCHEDULE OF LAWS REPEALED.

Revised Statutes.	Sections.	
Part 1, chapter 12.....	All.	
Part 4, chapter 3, articles 1 and 2.....	All.	
Part 1, chapter 20, title 17.....	All.	
Part 3, chapter 8, title 4, article 4.....	104, 105 and 106.	
Part 3, chapter 3, title 2, article 2.....	54-61 inclusive.	
LAWS OF	Chapter	Section.
1829.....	352.....	All.
1830.....	320.....	4.
1831.....	237.....	1.
1836.....	117. ....	All.
1838.....	314.....	All.
1839.....	369.....	1.
1844.....	125.....	All.
1847.....	276.....	8 to 14, inclusive

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LAWS OF	Chapter	Section.
1847.....	460.....	1 to 28, inclusive.
1847.....	455.....	14.
1847.....	498.....	All.
1848.....	164.....	All.
1848.....	136.....	All.
1848.....	327.....	All.
1849.....	116.....	All.
1849.....	194.....	All.
1849.....	360.....	All.
1850.....	346.....	All.
1850.....	12.....	All.
1851.....	175.....	2, 3.
1852.....	304.....	All.
1853.....	80.....	All.
1853.....	481.....	All.
1855.....	249.....	All.
1856.....	108.....	All.
1858.....	190.....	All.
1859.....	386.....	All.
1862.....	244.....	All.
1862.....	298.....	All.
1863.....	393.....	All.
1863.....	404.....	All.
1864.....	197.....	All.
1864.....	341.....	All.
1865.....	148.....	All.
1869.....	855.....	All.
1870.....	361.....	All.
1870.....	422.....	All.
1870.....	506.....	1.
1870.....	507.....	All.
1870.....	752.....	All.
1871.....	239.....	All.
1871.....	274.....	All.
1871.....	695.....	All.
1871.....	859.....	All.
1872.....	17.....	All.
1872.....	285.....	All.
1872.....	319.....	All.
1872.....	587.....	All.
1872.....	767.....	All.
1872.....	883.....	All.
1873.....	119.....	All.
1873.....	323.....	All.
1873.....	760.....	Clause in § 2 fix- ing the time for counties to pay their quota of state taxes.
1874.....	64.....	All.

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LAWS OF	Chapter	Section.
1874.....	323.....	Clause in § 1 relating to the employment of counsel to assist district attorneys and cost in proceedings to remove county officers.
1874.....	410.....	All.
1874.....	502.....	All.
1875.....	464.....	All.
1875.....	480.....	All.
1875.....	482.....	All.
1876.....	257.....	All.
1876.....	258.....	All.
1876.....	373.....	All.
1877.....	21.....	All.
1877.....	102.....	All.
1877.....	401.....	All.
1877.....	436.....	All.
1878.....	8.....	All.
1878.....	122.....	All.
1878.....	132.....	All.
1878.....	228.....	All.
1878.....	239.....	All.
1878.....	259.....	All.
1878.....	285.....	All.
1879.....	275.....	All.
1879.....	285.....	All.
1879.....	307.....	All.
1879.....	330.....	All.
1879.....	355.....	All.
1879.....	357.....	All.
1879.....	362.....	All.
1880.....	175.....	All.
1880.....	233.....	All.
1880.....	270.....	All.
1880.....	504.....	All.
1880.....	512.....	All.
1881.....	12.....	All.
1881.....	97.....	All.
1881.....	302.....	All.
1881.....	264.....	All.
1881.....	350.....	All.
1881.....	354.....	2.
1881.....	411.....	All.
1881.....	439.....	All.
1881.....	464.....	All.
31.....	543.....	All.
1.....	570.....	All.

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LAWS OF	Chapter	Section.
1881.....	613.....	All.
1882.....	58.....	All.
1882.....	60.....	All.
1882.....	118.....	All.
1882.....	196.....	All.
1882.....	250.....	All.
1882.....	289.....	All.
1882.....	304.....	All.
1882.....	317.....	All.
1883.....	111.....	All.
1883.....	212.....	All.
1883.....	309.....	4.
1883.....	374.....	All.
1883.....	492.....	All.
1884.....	141.....	All.
1884.....	231.....	1, 2.
1884.....	337.....	All.
1885.....	107.....	All.
1885.....	122.....	All.
1885.....	123.....	1.
1885.....	140.....	All.
1885.....	160.....	All.
1885.....	326.....	All.
1885.....	439.....	All.
1885.....	451.....	All.
1886.....	63.....	All.
1886.....	126.....	All.
1886.....	164.....	All.
1886.....	173.....	All.
1886.....	306.....	All.
1886.....	355.....	All.
1886.....	659.....	4.
1886.....	673.....	All.
1887.....	297.....	All.
1887.....	372.....	All.
1888.....	22.....	All.
1888.....	55.....	All.
1888.....	152.....	All.
1889.....	10.....	All.
1889.....	14.....	All.
1889.....	294.....	All.
1889.....	312.....	All.
1889.....	331.....	All.
1889.....	376.....	All.
1890.....	10.....	All.
1890.....	136.....	All.
1890.....	245.....	All.
1890.....	382.....	1.
1890.....	367.....	All.
1890.....	568.....	131.

## THE GENERAL CORPORATION LAW.

Ch. 85, G. L.

LAWS OF	Chapter	Section.
1891.....	277.....	All.
1891.....	289.....	All.
1891.....	355.....	All.

## CHAP. 687.

AN ACT to amend the general corporation law.

APPROVE by the Governor May 18, 1892. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

The general corporation law is amended to read as follows, to take effect immediately:

### CHAPTER XXXV OF THE GENERAL LAWS.

#### THE GENERAL CORPORATION LAW.

- SECTION 1. Short title.
2. Classification of corporations.
  3. Definitions.
  4. Qualifications of incorporators.
  5. Filing and recording certificates of incorporation.
  6. Corporations of the same name prohibited.
  7. Amended and supplemental certificates.
  8. Lost or destroyed certificates.
  9. Certificate and other papers as evidence.
  10. Prohibition of other than statutory powers.
  11. Grant of general powers.
  12. Limitation of amount of property of a non-stock corporation.
  13. Acquisition of additional real property.
  14. Acquisition of property in other states.
  15. Certificate of authority of a foreign corporation.
  16. Proof to be filed before granting certificate.
  17. Acquisition of real property in this state by certain foreign corporations.
  18. Acquisition by foreign corporations of real property in this state upon judicial sales.
  19. Prohibition of banking powers.
  20. Qualification of members as voters.
  21. Proxies.
  22. Challenges.
  23. Effect of failure to elect directors.
  24. Mode of calling special election of directors.
  25. Mode of conducting special election of directors.
  26. Qualification of voters and canvass of votes at special elections.
  27. Powers of supreme court respecting elections.
  28. Stay of proceedings in actions collusively brought.
  29. Quorum of directors and power of majority.
  30. Directors as trustees in case of dissolution.

**SECTION 81. Forfeiture for non-user.**

- 82. Extension of corporate existence.
- 83. Conflicting corporate laws.
- 84. Laws repealed.
- 85. Saving clause.
- 86. Construction.
- 87. Law revived.

**SECTION 1. Short title.**—This chapter shall be known as the general corporation law.

**§ 2. Classification of corporations.**—A corporation shall be either,

- 1. A municipal corporation,
- 2. A stock corporation,
- 3. A non-stock corporation, or
- 4. A mixed corporation.

A stock corporation shall be either,

- 1. A monied corporation,
- 2. A transportation corporation, or
- 3. A business corporation.

A non-stock corporation shall be either,

- 1. A religious corporation, or
- 2. A membership corporation.

A mixed corporation shall be either,

- 1. A cemetery corporation,
- 2. A library corporation,
- 3. A co-operative corporation,
- 4. A board of trade corporation, or
- 5. An agricultural and horticultural corporation.

A transportation corporation shall be either,

- 1. A railroad corporation, or
- 2. A transportation corporation other than a railroad corporation.

A membership corporation shall include benevolent orders and fire and soldiers' monument corporations.

A reference in a general law to a class of corporations described in accordance with this classification shall include all corporations theretofore formed belonging to such class.

**§ 3. Definitions.**—A municipal corporation includes a county, town, school district, village and city and any other territorial division of the state established by law with powers of local government.

A stock corporation is a corporation having capital stock divided into shares.



A mixed corporation is a corporation which may or may not have capital stock at its option.

A monied corporation is a corporation formed under or subject to the banking or the insurance law.

A domestic corporation is a corporation incorporated by or under the laws of the state or colony of New York. Every corporation, which is not a domestic corporation, is a foreign corporation.

The term, directors, when used in relation to corporations, shall include trustees or other persons, by whatever name known, duly appointed or designated to manage the affairs of the corporation.

The term, certificate of incorporation, shall include articles of association or any other written instruments required by law to be filed, to effect the incorporation of a corporation, including a certified copy of an original certificate of incorporation filed for such purpose in pursuance of law.

The term, member of a corporation, shall include every person having a right to vote at a meeting of the corporation for the election of directors, other than a person having a right to vote only upon a proxy.

The term, office of a corporation, means its principal office within the state, or principal place of business within the state if it has no principal office therein. The office of a stock corporation shall be in the county, town or city in which its business is principally carried on.

The term, business of a corporation, when used with reference to a non-stock corporation, includes the operations for the conduct of which it is incorporated.

The term, corporate law or laws, when used in any law forming a part of the revision of the general laws of the state of which this chapter is a part, means the general laws of the state relating to corporations included in such revision.

§ 4. **Qualification of incorporators.**—A certificate of incorporation must be executed by natural persons, who must be of full age, and at least two-thirds of them must be citizens of the United States and a majority of them residents of this state.

This section shall not apply to a corporation formed by the re-incorporation or consolidation of existing corporations, or to the re-organization of a corporation upon the sale of the property and franchises of a previously existing corporation or otherwise.

§ 5. **Filing and recording certificates of incorporation.**—Every certificate of incorporation and amended or supplemental cer-

tificate hereafter executed, except of a religious, cemetery, monied, municipal or fire department corporation, shall be filed in the office of the secretary of state, and shall be by him duly recorded and indexed in books specially provided therefor; and a certified copy of such certificate or amended or supplemental certificate with a certificate of the secretary of state of such filing and record, or a duplicate original of such certificate or amended or supplemental certificate shall be filed and similarly recorded and indexed in the office of the clerk of the county in which the office of the corporation is to be located, or, if it be a non-stock corporation, and such county be not determined upon at the time of executing the certificate of incorporation, in such county clerk's office as the judge approving the certificate shall direct.

All taxes required by law to be paid before or upon incorporation and the fees for filing and recording such certificate must be paid before filing. No corporation shall exercise any corporate powers or privileges until such taxes and fees have been paid.

§ 6. Corporations of the same name prohibited.—No certificate of incorporation of a proposed corporation having the same name as an existing domestic corporation, or a name so nearly resembling it as to be calculated to deceive, shall be filed or recorded in any office for the purpose of effecting its incorporation.

A corporation formed by the re-incorporation, re-organization or consolidation of other corporations or upon the sale of the property or franchises of a corporation, may have the same name as the corporation or one of the corporations to whose franchises it has succeeded.

§ 7. Amended and supplemental certificates.—If in the original or amended certificate of incorporation of any corporation, or if in a supplemental certificate of any corporation any informality exist, or if any such certificate contain any matter not authorized by law to be stated therein, or if the proof or acknowledgment thereof shall be defective, the incorporators or directors of the corporation may make and file an amended certificate correcting such informality or defect or striking out such unauthorized matter; and the certificate amended shall be deemed to be amended accordingly as of the date such amended certificate was filed, and upon the filing of such an amended certificate of incorporation, the corporation shall then for all purposes be deemed to be a corporation from the time of filing the original certificate.

The supreme court may, upon due cause shown, and proof made,

and upon notice to the attorney-general, and to such other persons as the court may direct, and upon such terms and conditions as it may impose, amend any certificate of incorporation which fails to express the true object and purpose of the corporation, so as to truly set forth such object and purpose.

When an amended or supplemental certificate is filed, an entry shall be made upon the margin of the index and record of the original certificate of the date and place of record of every such amended certificate.

The amendment of a certificate under this section shall be without prejudice to any pending action or proceeding, or to any rights previously accrued.

**§ 8. Lost or destroyed certificates.**—If either of the certificates of incorporation shall be lost or destroyed after filing, a certified copy of the other certificate may be filed in the place of the one so lost or destroyed and as of the date of its original filing, and such certified copy shall have the same force and effect as the original certificate had when filed.

**§ 9. Certificate and other papers as evidence.**—The certificate of incorporation of any corporation duly filed shall be presumptive evidence of its incorporation, and any amended certificate or other paper duly filed relating to the incorporation of any corporation, or its existence or management, and containing facts required by law to be stated therein, shall be presumptive evidence of the existence of such facts.

**§ 10. Prohibition of other than statutory powers.**—No corporation shall possess or exercise any corporate powers not expressly given by law or not necessary to the exercise of the powers so given.

**§ 11. Grant of general powers.**—Every corporation as such has power, though not specified in the law under which it is incorporated :

1. To have succession for the period specified in its certificate of incorporation or by law, and perpetually when no period is specified.

2. To have a common seal, and alter the same at pleasure.

3. To acquire by grant, gift, purchase, devise or bequest, to hold and to dispose of such property as the purposes of the corporation shall require, subject to such limitations as may be prescribed by law.

4. To appoint such officers and agents as its business shall require, and to fix their compensation, and

5. To make by-laws, not inconsistent with any existing law, for the management of its property, the regulation of its affairs, and the

transfer of its stock, if it has any. Such by-laws may also fix the amount of stock, which must be represented at meetings of the stockholders in order to constitute a quorum, unless otherwise provided by law. By-laws duly adopted at a meeting of the members of the corporation shall control the action of its directors.

No by-law regulating the election of directors or officers shall be valid unless published for at least two weeks in a newspaper in the county where the election is to be held, and at least thirty days before such election.

Subdivisions four and five of this section shall not apply to municipal corporations.

**§ 12. Limitations of amount of property of a non-stock corporation.**—A corporation not having capital stock may take and hold property not exceeding in value three million dollars, or the yearly income derived from which shall not exceed five hundred thousand dollars, notwithstanding the provisions of any general or special act heretofore passed or certificate of incorporation affecting such corporation.

In computing the value of such property, no increase in value arising otherwise than from improvements made thereon shall be taken into account.

**§ 13. Acquisition of additional real property.**—When any corporation shall have sold or conveyed any part of its real property, the supreme court may, notwithstanding any restriction of a general or special law, authorize it to purchase and hold from time to time other real property, upon satisfactory proof that the value of the property so purchased does not exceed the value of the property so sold and conveyed within the three years next preceding the application.

**§ 14. Acquisition of property in other states.**—Any domestic corporation transacting business in other states or foreign countries may acquire and dispose of such property as shall be requisite for such corporation in the convenient transaction of its business.

**§ 15. Certificate of authority of a foreign corporation.**—No foreign stock corporation other than a monied corporation, shall do business in this state without having first procured from the secretary of state a certificate that it has complied with all the requirements of law to authorize it to do business in this state, and that the business of the corporation to be carried on in this state is such as may be lawfully carried on by a corporation incorporated under the laws of this state for such or similar business, or, if more than one kind of

business, by two or more corporations so incorporated for such kinds of business respectively. The secretary of state shall deliver such certificate to every such corporation so complying with the requirements of law. No such corporation now doing business in this state shall do business herein after December 31, 1892, without having procured such certificate from the secretary of state, but any lawful contract previously made by the corporation may be performed and enforced within the state subsequent to such date. No foreign stock corporation doing business in this state without such certificate shall maintain any action in this state upon any contract made by it in this state until it shall have procured such certificate.

§ 16. Proof to be filed before granting certificate.—Before granting such certificate the secretary of state shall require every such foreign corporation to file in his office a sworn copy of its charter or certificate of incorporation, and a statement under its corporate seal, particularly setting forth the business or objects of the corporation which it is engaged in carrying on, or which it proposes to carry on, within the state, and a place within the state which is to be its principal place of business, and designating, in the manner prescribed in the Code of Civil Procedure, a person upon whom process against the corporation may be served within the state.

The person so designated must have an office or place of business at the place where such corporation is to have its principal place of business within the state. Such designation shall continue in force until revoked by an instrument in writing designating in like manner some other person upon whom process against the corporation may be served in this state.

If the person so designated dies, or removes from the place where the corporation has its principal place of business within the state, and the corporation does not within thirty days after such death or removal, designate in like manner another person upon whom process against it may be served within the state, the secretary of state may revoke the authority of the corporation to do business within the state, and process against the corporation in an action upon any liability incurred within this state before such revocation may, after such death or removal and before another designation is made, be served upon the secretary of state. At the time of such service the plaintiff shall pay to the secretary of state two dollars, to be included in his taxable costs and disbursements, and the secretary of state shall forthwith mail a copy of such notice to such corporation, if its address or the address of any officer thereof is known to him.

§ 17. Acquisition of real property in this state by certain foreign corporations.—Any foreign corporation created under the laws of the United States, or of any state or territory thereof, and doing business in this state, may acquire such real property in this state as may be necessary for its corporate purposes in the transaction of its business in this state, and convey the same by deed or otherwise in the same manner as a domestic corporation.

§ 18. Acquisition by foreign corporations of real property in this state upon judicial sales.—Any foreign corporation may purchase at a sale upon the foreclosure of any mortgage held by it, or upon any judgment or decree for debts due it, or upon any settlement to secure such debts, any real property within this state covered by or subject to such mortgage, judgment, decree or settlement, and hold the same for not exceeding five years from the date of such purchase, and convey it by deed or otherwise, in the same manner as a domestic corporation.

§ 19. Prohibition of banking powers.—No corporation except a corporation formed under or subject to the banking laws, shall by any implication or construction be deemed to possess the power of carrying on the business of discounting bills, notes or other evidences of debt, of receiving deposits, of buying gold or silver bullion or foreign coins, or buying and selling bills of exchange, or shall issue bills, notes or other evidences of debt for circulation as money.

§ 20. Qualification of members as voters.—At every election of directors and meeting of the members of any corporation, every member who is not in default in the payment of his subscriptions upon his stock or disqualified by the by-laws, shall be entitled to one vote, if a non-stock corporation, and, if a stock corporation, to one vote for every share of stock held by him for ten days immediately preceding the election or meeting.

Every pledgor of stock standing in his name on the books of the corporation shall be deemed the owner thereof for the purposes of this section.

The certificate of incorporation of any stock corporation may provide that at all elections of directors of such corporation, each stockholder shall be entitled to as many votes as shall equal the number of his shares of stock multiplied by the number of directors to be elected, and that he may cast all of such votes for a single director or may distribute them among the number to be voted for, or any two or more of them as he may see fit, which right, when exercised,



shall be termed cumulative voting. The stockholders of a corporation heretofore formed, who, by the provisions of laws existing on April 30, 1891, were entitled to the exercise of such right, may hereafter exercise such right according to the provisions of this section.

No person shall vote or issue a proxy to vote at any meeting of the stockholders or bondholders, or both, of a stock corporation, upon any stock or bonds which have not been owned by him for at least ten days next preceding such meeting, notwithstanding such stock or bonds may stand in his name on the books of the corporation.

No member of a corporation shall sell his vote or issue a proxy to vote to any person for any sum of money or any thing of value.

The books and papers containing the record of membership of the corporation shall be produced at any meeting of its members upon the request of any member. If the right to vote at any such meeting shall be challenged, the inspectors of election, or other persons presiding thereat, shall require such books, if they can be had, to be produced as evidence of the right of the person challenged to vote at such meeting, and all persons who may appear from such books to be members of the corporation may vote at such meeting in person or by proxy, subject to the provisions of this chapter.

§ 21. **Proxies.**—Every member of a corporation, except a religious corporation, entitled to vote at any meeting thereof may so vote by proxy.

No officer, clerk, teller or bookkeeper of a corporation formed under or subject to the banking law shall act as proxy for any stockholder at any meeting of any such corporation.

Every proxy must be executed in writing by the member himself, or by his duly authorized attorney. No proxy hereafter made shall be valid after the expiration of eleven months from the date of its execution unless the member executing it shall have specified therein the length of time it is to continue in force, which shall be for some limited period. Every proxy shall be revocable at the pleasure of the person executing it; but a corporation having no capital stock may prescribe in its by-laws the persons who may act as proxies for members, and the length of time for which proxies may be executed.

§ 22. **Challenges.**—Every member of a corporation offering to vote at any election or meeting of the corporation shall, if required

by an inspector of election or other officer presiding at such election or meeting, or by any other member present, take and subscribe the following oath: "I do solemnly swear that in voting at this election I have not, either directly, indirectly or impliedly, received any promise or any sum of money, or any thing of value to influence the giving of my vote or votes at this meeting or as a consideration therefor."

If it is a stock corporation, the oath so taken and subscribed shall contain the following additional provision:

"That I have not sold or otherwise disposed of my interest in or title to any shares of stock or bonds in respect to which I offer to vote at this election, but that all such shares or bonds are still owned by me."

Any person offering to vote as proxy for any other person shall present his proxy and, if so required, take and subscribe the following oath:

"I do solemnly swear that I have not, either directly, indirectly or impliedly, given any promise or any sum of money or any thing of value to induce the giving of a proxy to me to vote at this election, or received any promise or any sum of money or any thing of value to influence the giving of my vote at this meeting, or as a consideration therefor."

If a stock corporation, the oath so taken and subscribed shall contain the following additional provision:

"And that the title to the stocks and bonds upon which I now offer to vote is, to the best of my knowledge and belief, truly and in good faith vested in the persons in whose names they now stand."

The inspectors or persons presiding at the election may administer such oath, and all such oaths and proxies shall be filed in the office of the corporation.

§ 23. Effect of failure to elect directors.—If the directors shall not be elected on the day designated in the by-laws, or by law, the corporation shall not for that reason be dissolved; but every director shall continue to hold his office and discharge his duties until his successor has been elected.

§ 24. Mode of calling special election of directors.—If the election has not been held on the day so designated, the directors shall forthwith call a meeting of the members of the corporation for the purpose of electing directors, of which meeting notice shall be given in the same manner as of the annual meeting for the election of directors.

If such meeting shall not be so called within one month, or, if held, shall result in a failure to elect directors, any member of the corporation may call a meeting for the purpose of electing directors by publishing a notice of the time and place of holding such meeting at least once in each week for two successive weeks immediately preceding the election, in a newspaper published in the county where the election is to be held and in such other manner as may be prescribed in the by-laws for the publication of notice of the annual meeting, and by serving upon each member, either personally or by mail, directed to him at his last known post-office address, a copy of such notice at least two weeks before the meeting.

**§ 25. Mode of conducting special elections of directors.**—Such meeting shall be held at the office of the corporation, or if it has none, at the place in this state where its principal business has been transacted, or if access to such office or place is denied or cannot be had, at some other place in the city, village or town where such office or place is or was located.

At such meeting the members attending shall constitute a quorum. They may elect inspectors of election and directors and adopt by-laws providing for future annual meetings and election of directors, if the corporation has no such by-laws, and transact any other business which may be transacted at an annual meeting of the members of the corporation.

**§ 26. Qualification of voters and canvass of votes at special elections.**—In the absence at such meeting of the books of the corporation showing who are members thereof, each person, before voting, shall present his sworn statement setting forth that he is a member of the corporation; and if a stock corporation, the number of shares of stock owned by him and standing in his name on the books of the corporation, and, if known to him, the whole number of shares of stock of the corporation outstanding. On filing such statement, he may vote as a member of the corporation; and if a stock corporation, he may vote on the shares of stock appearing in such statement to be owned by him and standing in his name on the books of the corporation.

The inspectors shall return and file such statements, with a certificate of the result of the election, verified by them, in the office of the clerk of the county in which such election is held, and the persons so elected shall be the directors of the corporation.

**§ 27. Powers of supreme court respecting elections.**—The supreme court shall, upon the application of any person or corpora-

tion aggrieved by or complaining of any election of any corporation or any proceeding, act or matter touching the same, upon notice thereof to the adverse party, or to those to be affected thereby, forthwith and in a summary way, hear the affidavits, proofs and allegations of the parties, or otherwise inquire into the matters or causes of complaint, and establish the election or order a new election, or make such order and give such relief as right and justice may require.

**§ 28. Stay of proceedings in actions collusively brought.**—If an action is brought against a corporation by the procurement or default of its directors, or any of them, to enforce any claim or obligation declared void by law, or to which the corporation has a valid defense, and such action is in the interest or for the benefit of any director, and the corporation has by his connivance made default in such action, or consented to the validity of such claim or obligation, any member of the corporation may apply to the supreme court, upon affidavit, setting forth the facts, for a stay of proceedings in such action, and on proof of the facts in such further manner and upon such notice as the court may direct, it may stay such proceedings or set aside and vacate the same, or grant such other relief as may seem proper, and which will not injuriously affect an innocent party, who, without notice of such wrongdoing and for a valuable consideration, has acquired rights under such proceedings.

**§ 29. Quorum of directors and powers of majority.**—The affairs of every corporation shall be managed by its board of directors at least two of whom shall be residents of this state. Unless otherwise provided by law a majority of the board of directors of a corporation at a meeting duly assembled shall be necessary to constitute a quorum for the transaction of business, and the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors. Subject to the by-laws, if any, adopted by the members of a corporation, the directors may make necessary by-laws of the corporation.

**§ 30. Directors as trustees in case of dissolution.**—Upon the dissolution of any corporation, its directors, unless other persons shall be appointed by the legislature, or by some court of competent jurisdiction, shall be the trustees of its creditors, stockholders or members, and shall have full power to settle its affairs, collect and pay outstanding debts, and divide among the persons entitled thereto the money and other property remaining after payment of debts and necessary expenses.

Such trustees shall have authority to sue for and recover the debts and property of the corporation, by their name as such trustees, and shall jointly and severally be personally liable to its creditors, stockholders or members, to the extent of its property and effects that shall come into their hands.

§ 31. **Forfeiture for non-user.**—If any corporation, except a railroad, turnpike, plank-road or bridge corporation, shall not organize and commence the transaction of its business or undertake the discharge of its corporate duties within two years from the date of its incorporation, its corporate powers shall cease.

§ 32. **Extension of corporate existence.**—Any domestic corporation at any time within three years before the expiration thereof, may extend the term of its existence beyond the time specified in its original certificate of incorporation, or by law, or in any certificate of extension of corporate existence, by the consent of the stockholders owning two-thirds in amount of its capital stock, if not a stock corporation, by the consent of two-thirds of its members, in and by a certificate signed and acknowledged by them and filed in the offices in which the original certificates of its incorporation were filed, if at all, and, if not, then in the offices where certificates of incorporation are now required by law to be filed, and the officers with whom the same may be filed shall thereupon record them in the books kept in their respective offices for the record of such certificates, and make a memorandum of such record in the margin of the original certificate in such book, if any, and thereupon the time of existence of such corporation shall be extended, as designated in such certificate, for a term not exceeding the term of which it was incorporated in the first instance. If the term of existence of any domestic corporation shall have expired and it shall be made satisfactorily to appear to the supreme court that such corporation was legally organized pursuant to any law of this state, and that through mistake it shall have issued its bonds payable at a date beyond the date fixed in its charter or certificate of incorporation for the expiration of its corporate existence, and such bonds shall be unmatured and unpaid, the supreme court may, upon the application of any person interested and upon such notice to such other parties as the court may require, by order, authorize the filing and recording of a certificate reviving the existence of such corporation, upon such conditions and with such limitations as such order shall specify, and extending such corporate existence for a term not exceeding the term for which it was

originally incorporated. Upon filing and recording such certificate in the same manner as certificates of extension of corporate existence duly issued before the expiration of the existence of a domestic corporation is authorized by law to be filed and recorded, such corporate existence shall be revived and extended in pursuance of the terms of such order, but such revival and extension shall not affect any litigation commenced after such expiration and pending at the time of such revival.

If a corporation formed under or subject to the banking law, such certificate shall not be filed or recorded unless it shall have indorsed thereon the written approval of the superintendent of banks; or, if an insurance corporation, unless it shall have indorsed thereon the written approval of the superintendent of insurance; and, if a turnpike or bridge corporation, it shall not be filed unless it shall have indorsed thereon or annexed thereto a certified copy of a resolution of the board of supervisors of each county in which such turnpike or bridge is located, approving of and authorizing such extension.

Every corporation extending its corporate existence under this chapter or under any general law of the state shall thereafter be subject to the provisions of this chapter and of such general law, notwithstanding any special provisions in its charter, and shall thereafter be deemed to be incorporated under the general laws of the state relating to the incorporation of a corporation for the purpose of carrying on the business in which it is engaged, and shall be subject to the provisions of such laws.

§ 33. **Conflicting corporate laws.**—If in any corporate law there is or shall be any provision in conflict with any provisions of this chapter or of the stock corporation law, the provisions so conflicting shall prevail, and the provision of this chapter or of the stock corporation law with which it conflicts shall not apply in such a case. If in any such law there is or shall be a provision relating to a matter embraced in this chapter or in the stock corporation law, but not in conflict with it, such provision in such other law shall be deemed to be in addition to the provision in this chapter or in the stock corporation law relating to the same subject-matter, and both provisions shall, in such case, be applicable.

§ 34. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.



§ 35. **Saving clause.**—The repeal of a law or any part of it specified in the annexed schedule shall not affect or impair any act done, or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to May 1, 1891, under or by virtue of any law so repealed, but the same may be asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such law had not been repealed. All actions and proceedings, civil or criminal, commenced under or by virtue of the laws so repealed, and pending on April 30, 1891, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing, unless it shall be otherwise specially provided by law.

§ 36. **Construction.**—The provisions of this chapter, and of the stock corporation law, the railroad law, the transportation corporations law, and the business corporations law, so far as they are substantially the same as those of laws existing on April 30, 1891, shall be construed as a continuation of such laws modified or amended according to the language employed in this chapter, or in the stock corporation law, the railroad law, the transportation corporations law, or the business corporations law, and not as new enactments.

References in laws not repealed to provisions of laws incorporated into the general laws hereinbefore enumerated and repealed, shall be construed as applying to the provisions so incorporated.

Nothing in this chapter or in the other general laws hereinbefore specified shall be construed to amend or repeal any provision of the Criminal or Penal Code or to impair any right or liability which any existing corporation, its officers, directors, stockholders or creditors may have or be subject to or which any such corporation, other than a railroad corporation, had or was subject to on April 30, 1891, by virtue of any special act of the legislature creating such corporation or creating or defining any such right or liability, unless such special act is repealed by this chapter.

§ 37. **Law revived.**—Chapter three hundred of the laws of eighteen hundred and fifty-five, entitled “An act to incorporate the Baptist Historical Society of the city of New York,” which was inadvertently repealed by the transportation corporations law, is revived and re-enacted, and shall be of the same force and effect as if it had not been repealed.

CHAP. 687] ONE HUNDRED AND FIFTEENTH SESSION. 1815

Ch. 85, G. L. THE GENERAL CORPORATION LAW.

SCHEDULE OF LAWS REPEALED.

Revised Statutes... Part I, chapter 18... All.

LAWS OF	Chapter	Sections.
1811.....	67.....	All.
1815.. ..	47.....	All.
1815.....	202.....	All.
1816.....	58.....	All.
1817.....	223.....	All.
1818.....	67.....	All.
1819 .....	102.....	All.
1821.....	14.....	All.
1822.....	213.....	All.
1836.....	284.....	All.
1836.....	316.....	All.
1838.....	160.....	All.
1838.....	161.....	All.
1838.....	262 .....	All.
1839.....	218.....	All.
1842.....	165.....	All.
1846.....	155.....	All.
1846.....	215.....	17, 18.
1847.....	100.....	3, 4.
1847.....	210.....	All.
1847.....	222.....	All.
1847.....	270.....	All.
1847.....	272.....	All.
1847.....	287.....	All.
1847.....	398.....	All.
1847.....	404.....	All.
1847.....	405.....	All.
1848 .....	37.....	All.
1848.....	40.....	All.
1848.....	45.....	All.
1848.....	259.....	All.
1848.....	265.....	All.
1848.....	360.....	All.
1849.....	250.....	All.
1849.....	362.....	All.
1850.....	71.....	All.
1850.....	140.....	All.
1851.....	14.....	All.
1851.....	19.....	All.
1851.....	98.....	All.
1851.....	107.....	All.
1851.....	487.....	All.
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1852.....	228.....	All.
1852.....	372.....	All.

## THE GENERAL CORPORATION LAW.

Ch. 85, G. L.

LAWS OF	Chapter	Section.
1853.....	53.....	All.
1853.....	117.....	All.
1853.....	124.....	All.
1853.....	135.....	All.
1853.....	245.....	All.
1853.....	333.....	All.
1853.....	471.....	1, 2, 4.
1853.....	481.....	All.
1853.....	502.....	All.
1853.....	626.....	All.
1854.....	3.....	All.
1854.....	87.....	All.
1854.....	140.....	All.
1854.....	201.....	All.
1854.....	232.....	All.
1854.....	269.....	All.
1854.....	282.....	All.
1854.....	312.....	All.
1855.....	301.....	All.
1855.....	302.....	All.
1855.....	390.....	All.
1855.....	478.....	All.
1855.....	485.....	All.
1855.....	495.....	All.
1855.....	546.....	All.
1855.....	559.....	All.
1856.....	65.....	All.
1857.....	29.....	All.
1857.....	83.....	All.
1857.....	185.....	All.
1857.....	202.....	All.
1857.....	262.....	All.
1857.....	444.....	All.
1857.....	546.....	All.
1857.....	558.....	All.
1857.....	643.....	All.
1857.....	776.....	All.
1858.....	10.....	All.
1858.....	125.....	All.
1859.....	209.....	All.
1859.....	311.....	All.
1859.....	455.....	All.
1860.....	116.....	All.
1860.....	269.....	All.
1860.....	523.....	All.
1861.....	149.....	All.
1861.....	170.....	All.
1861.....	215.....	All.

# CHAP. 687] ONE HUNDRED AND FIFTEENTH SESSION. 1817

## Ch. 85, G. L. THE GENERAL CORPORATION LAW.

LAWS OF	Chapter	Section.
1861.....	238.....	All.
1862.....	205.....	All.
1862.....	248.....	All.
1862.....	425.....	All.
1862.....	438.....	All.
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1823.....	472.....	All.
1863.....	63.....	All.
1866.....	134.....	All.
1863.....	346.....	All.
1864.....	85.....	All.
1864.....	337.....	All.
1864.....	517.....	All.
1864.....	582.....	All.
1865.....	234.....	All.
1865.....	246.....	All.
1865.....	307.....	All.
1865.....	691.....	All.
1865.....	780.....	All.
1866.....	73.....	All.
1866.....	259.....	All.
1866.....	322.....	All.
1866.....	371.....	All.
1866.....	697.....	All.
1866.....	780.....	All.
1866.....	799.....	All.
1866.....	838.....	All.
1867.....	12.....	All.
1867.....	49.....	All.
1867.....	248.....	All.
1867.....	254.....	All.
1867.....	419.....	All.
1867.....	480.....	All.
1867.....	509.....	All.
1867.....	775.....	All.
1867.....	906.....	All.
1867.....	937.....	All.
1867.....	960.....	All.
1867.....	974.....	All.
1868.....	253.....	All.
1868.....	290.....	All.
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1869.....	234.....	All.
1869.....	237.....	All.
1869.....	605.....	All.
1869.....	706.....	All.
1869.....	844.....	All.

## THE GENERAL CORPORATION LAW.

Ch. 85, G. L.

LAWS OF	Chapter	Section.
1869.....	917.....	All.
1870.....	124.....	All.
1870.....	135.....	All.
1870.....	322.....	All.
1870.....	443.....	All.
1870.....	568.....	All.
1870.....	773.....	All.
1871.....	95.....	All.
1871.....	481.....	All.
1871.....	535.....	All.
1871.....	560.....	All.
1871.....	657.....	All.
1871.....	669.....	All.
1871.....	697.....	All.
1871.....	883.....	All.
1872.....	81.....	All.
1872.....	128.....	All.
1872.....	146.....	All.
1872.....	248.....	All.
1872.....	283.....	All.
1872.....	350.....	All.
1872.....	374.....	All.
1872.....	426.....	All.
1872.....	609.....	All.
1872.....	611.....	All.
1872.....	779.....	All.
1872.....	780.....	All.
1872.....	820.....	All except 20.
1872.....	829.....	All.
1872.....	843.....	All.
1873.....	151.....	All.
1873.....	352.....	All.
1873.....	432.....	All.
1873.....	440.....	All.
1873.....	469.....	All.
1873.....	616.....	All.
1873.....	710.....	All.
1873.....	737.....	All.
1873.....	814.....	All.
1874.....	76.....	All.
1874.....	143.....	All.
1874.....	149.....	All.
1874.....	240.....	All.
1874.....	288.....	All.
1874.....	430.....	All.
1875.....	4.....	All.
1875.....	58.....	All.
1875.....	88.....	All.

**CHAP. 687] ONE HUNDRED AND FIFTEENTH SESSION. 1819****Ch. 85, G. L.      THE GENERAL CORPORATION LAW.**

<b>LAWS OF</b>	<b>Chapter</b>	<b>Section.</b>
1875.....	108.....	All.
1875.....	113.....	All.
1875.....	119.....	All.
1875.....	120.....	All.
1875.....	159.....	All.
1875.....	193.....	All.
1875.....	256.....	All.
1875.....	319.....	All.
1875.....	365.....	All.
1875.....	445.....	All.
1875.....	510.....	All.
1875.....	586.....	All.
1875.....	598.....	All.
1875.....	606.....	All.
1875.....	611.....	All.
1876.....	77.....	All.
1876.....	135.....	All.
1876.....	198.....	All.
1876.....	280.....	All.
1876.....	358.....	All.
1876.....	373.....	All.
1876.....	415.....	All.
1876.....	435.....	All.
1876.....	446.....	All.
1877.....	103.....	All.
1877.....	158.....	All.
1877.....	164.....	All.
1877.....	171.....	All.
1877.....	224.....	All.
1877.....	266.....	All.
1877.....	374.....	All.
1878.....	61.....	All.
1878.....	121.....	All.
1878.....	163.....	All.
1878.....	203.....	All.
1878.....	210.....	All.
1878.....	261.....	All.
1878.....	264.....	All.
1878.....	316.....	All.
1878.....	334.....	All.
1878.....	394.....	All.
1879.....	214.....	All.
1879.....	253.....	All.
1879.....	290.....	All.
1879.....	293.....	All.
1879.....	350.....	All.
1879.....	377.....	All.
1879.....	393.....	All.



## THE GENERAL CORPORATION LAW.

Ch. 85, G. L.

LAWS OF	Chapter	Section.
1879.....	395.....	All.
1879.....	413.....	All.
1879.....	415.....	All.
1879.....	441.....	All.
1879.....	503.....	All.
1879.....	505.....	All.
1879.....	512.....	All.
1879.....	541.....	All.
1880.....	5.....	All.
1880.....	85.....	All.
1880.....	90.....	All.
1880.....	94.....	All.
1880.....	113.....	All.
1880.....	133.....	All.
1880.....	155.....	All.
1880.....	182.....	All.
1880.....	187.....	All.
1880.....	223.....	All.
1880.....	225.....	All.
1880.....	241.....	All.
1880.....	254.....	All.
1880.....	263.....	All.
1880.....	267.....	All.
1880.....	349.....	All.
1880.....	415.....	All.
1880.....	417.....	All.
1880.....	484.....	All.
1880.....	510.....	All.
1880.....	575.....	All.
1880.....	582.....	All.
1880.....	583.....	All.
1880.....	585.....	All.
1881.....	22.....	All.
1881.....	58.....	All.
1881.....	77.....	All.
1881.....	117.....	All.
1881.....	148.....	All.
1881.....	213.....	All.
1881.....	232.....	All.
1881.....	295.....	All.
1881.....	296.....	All.
1881.....	311.....	All.
1881.....	313.....	All.
1881.....	321.....	All.
1881.....	337.....	All.
1881.....	338.....	All.
1881.....	351.....	All.
1881.....	399.....	All.

# CHAP. 687] ONE HUNDRED AND FIFTEENTH SESSION. 1821

Ch. 85, G. L. THE GENERAL CORPORATION LAW.

LAWS OF	Chapter	Section.
1881.....	422.....	All.
1881.....	464.....	All.
1881.....	468.....	All.
1881.....	470.....	All.
1881.....	472.....	All.
1881.....	485.....	All.
1881.....	551.....	All.
1881.....	589.....	All.
1881.....	649.....	All.
1881.....	650.....	All.
1881.....	674.....	All.
1881.....	685.....	All.
1882.....	73.....	All.
1882.....	82.....	All.
1882.....	140.....	All.
1882.....	273.....	All.
1882.....	289.....	All.
1882.....	290.....	All.
1882.....	306.....	All.
1882.....	309.....	All.
1882.....	349.....	All.
1882.....	353.....	All.
1882.....	393.....	All.
1882.....	405.....	All.
1883.....	46.....	All.
1883.....	71.....	All.
1883.....	102.....	All.
1883.....	216.....	All.
1883.....	232.....	All.
1883.....	237.....	All.
1883.....	238.....	All.
1883.....	240.....	All.
1883.....	287.....	All.
1883.....	323.....	All.
1883.....	361.....	All.
1883.....	381.....	All.
1883.....	382.....	All.
1883.....	384.....	All.
1883.....	386.....	All.
1883.....	387.....	All.
1883.....	388.....	All.
1883.....	409.....	All.
1883.....	482.....	All.
1883.....	483.....	All.
1883.....	497.....	All.
1884.....	140.....	All.
1884.....	193.....	All.
1884.....	208.....	All.

## THE GENERAL CORPORATION LAW.

Ch. 85, G. L.

LAWS OF	Chapter	Section.
1884.....	223.....	All.
1884.....	252.....	All.
1884.....	267.....	All.
1884.....	367.....	All.
1884.....	386.....	All.
1884.....	397.....	All.
1884.....	421.....	All.
1884.....	422.....	All.
1884.....	439.....	All.
1884.....	441.....	All.
1884.....	444.....	All.
1885.....	84.....	All.
1885.....	127.....	All.
1885.....	141.....	All.
1885.....	153.....	All.
1885.....	171.....	All.
1885.....	305.....	All.
1885.....	369.....	All.
1885.....	422.....	All.
1885.....	423.....	All.
1885.....	489.....	All.
1885.....	498.....	All.
1885.....	535.....	All.
1885.....	540.....	All.
1885.....	549.....	All.
1886.....	65.....	All.
1886.....	182.....	All.
1886.....	271.....	All.
1886.....	321.....	All.
1886.....	322.....	All.
1887.....	403.....	All.
1886.....	415.....	All.
1886.....	509.....	All.
1886.....	551.....	All.
1886.....	579.....	All.
1886.....	586.....	All.
1886.....	592.....	All.
1886.....	601.....	All.
1886.....	605.....	All.
1886.....	634.....	All.
1886.....	642.....	All.
1887.....	450.....	All.
1887.....	486.....	All.
1887.....	536.....	All.
1887.....	570.....	All.
1887.....	616.....	All.
1887.....	622.....	All.
1887.....	724.....	All.

**CHAP. 687] ONE HUNDRED AND FIFTEENTH SESSION. 1823****Ch. 35, G. L.      THE GENERAL CORPORATION LAW.**

<b>LAWS OF</b>	<b>Chapter</b>	<b>Section.</b>
1888.....	189.....	All.
1888.....	306.....	All.
1888.....	313.....	All.
1888.....	359.....	All.
1888.....	394.....	All.
1888.....	447.....	All.
1888.....	462.....	All.
1888.....	513.....	All.
1888.....	514.....	All.
1888.....	549.....	All.
1888.....	560.....	All.
1889.....	57.....	All.
1889.....	76.....	All.
1889.....	78.....	All.
1889.....	236.....	All.
1889.....	242.....	All.
1889.....	281.....	All.
1889.....	332.....	All.
1889.....	369.....	All.
1889.....	426.....	All.
1889.....	519.....	All.
1889.....	524.....	All.
1889.....	531.....	All.
1889.....	532.....	All.
1889.....	564.....	All.
1890.....	23.....	All.
1890.....	98.....	All.
1890.....	119.....	All.
1890.....	193.....	All.
1890.....	292.....	All.
1890.....	416.....	All.
1890.....	421.....	All.
1890.....	483.....	All.
1890.....	497.....	All.
1890.....	505.....	All.
1890.....	508.....	All.
1890.....	548.....	All.
1891.....	57.....	All.
1891.....	287.....	All.
1892.....	2.....	All.

**CHAP. 688.**

**AN ACT** to amend the stock corporation law.

APPROVED by the Governor May 18, 1892. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

The stock corporation law is amended to read as follows, to take effect immediately:

**CHAPTER XXXVI OF THE GENERAL LAWS.****THE STOCK CORPORATION LAW.**

**ARTICLE 1.** General powers; reorganization. (§§ 1-7).

2. Directors and officers; their election, duties and liabilities. (§§ 20-32).

3. Stock; stockholders, their rights and liabilities. (§§ 40-55).

**ARTICLE I.****GENERAL POWERS; REORGANIZATION.**

**SECTION 1.** Short title, and application of chapter.

2. Power to borrow money and mortgage property.

3. Reorganization upon sale of corporate property and franchises.

4. Contents of plan or agreement.

5. Sale of property; possession of receiver and suits against him.

6. Assent of stockholders to plan of readjustment.

7. Combinations prohibited.

**SECTION 1. Short title and application of chapter.**—This chapter shall be known as the stock corporation law, but article one shall not apply to monied corporations.

**§ 2. Power to borrow money and mortgage property.**—In addition to the powers conferred by the general corporation law, every stock corporation shall have power to borrow money or contract debts, when necessary for the transaction of its business, or for the exercise of its corporate rights, privileges or franchises, or for any other lawful purpose of its incorporation; and may issue and dispose of its obligations for any amount so borrowed, and may mortgage its property and franchises to secure the payment of such obligations or of any debt contracted for the purposes herein specified; and the amount of the obligations issued and outstanding at any one time secured by such mortgages, excepting mortgages given as a consideration for the purchase of real estate, and mortgages authorized by contracts made prior to May first, eighteen hundred

and ninety-one, shall not exceed the amount of its paid up capital stock, or an amount equal to two-thirds of the value of its corporate property at the time of issuing the obligations secured by such mortgages, in case such two-thirds value shall be more than the amount of such paid up capital stock. No such mortgages, except purchase-money mortgages shall be issued without the consent, of the stockholders owning at least two-thirds of of\* the stock of the corporation, which consent shall be in writing and shall be filed and recorded in the office of the clerk or register of the county where it has its principal place of business, or shall be given by vote at a special meeting of the stockholders called for that purpose; and a certificate of the vote at such meeting, signed and sworn to by the chairman and secretary of such meeting, shall be filed and recorded as aforesaid. When authorized by such consent, the directors, under such regulations as they may adopt, may confer on the holder of any debt or obligation secured by such mortgage the right to convert the principal thereof, after two and not more than twelve years from the date of the mortgage, into stock of the corporation; and if the capital stock shall not be sufficient to meet the conversion when made, the stockholders shall, in the manner herein provided, authorize an increase of capital stock sufficient for that purpose.

**§ 3. Reorganization upon sale of corporate property and franchises.**—When the property and franchises of any domestic stock corporation shall be sold by virtue of a mortgage or deed of trust, duly executed by it, or pursuant to the judgment or decree of a court of competent jurisdiction, or by virtue of any execution issued thereon, and the purchaser at such sale shall acquire title to the same in the manner prescribed by law, he may associate with him any number of persons, not less than the number required by law for the incorporation of such corporation, a majority of whom shall be citizens and residents of this state, and they may become a corporation, and take and possess the property and franchises thus sold, and which were at the time of sale possessed by the corporation whose property shall have been so sold, upon making, acknowledging and filing in the offices where certificates of incorporation are required by law to be filed, a certificate in which they shall describe by name and reference to the law under which it was organized, the corporation whose property and franchises they have acquired, and the court by whose authority the sale had been

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\* So in the original.

made, with the date of the judgment or decree authorizing or directing the same, and a brief description of the property sold, and also the following particulars:

1. The name of the new corporation intended to be formed by the filing of such certificate.

2. The maximum amount of its capital stock and the number of shares into which it is to be divided, specifying the classes thereof, whether common or preferred, and the amount of and rights pertaining to each class.

3. The number of directors, not less nor more than the number required by law for the old corporation, who shall manage the affairs of the new corporation, and the names and post-office address of the directors for the first year.

4. Any plan or agreement which may have been entered into at or previous to the time of sale, in anticipation of the formation of the new corporation, and pursuant to which such purchase was made. Such corporation shall be vested with and be entitled to exercise and enjoy all the rights, privileges and franchises, which at the time of such sale belonged to, or were vested in the corporation, last owning the property sold, or its receiver, and shall be subject to all the provisions, duties and liabilities imposed by law on such corporations.

§ 4. Contents of plan or agreement.—At or previous to the sale the purchasers thereat, or the persons for whom the purchase is to be made, may enter into a plan or agreement, for or in anticipation of the readjustment of the respective interests therein of the mortgage creditors and stockholders of the corporation owning such property and franchises at the time of sale, and for the representation of such interests of creditors and stockholders in the bonds or stock of the new corporation to be formed, and may therein regulate voting by the holders of the preferred and common stock at any meeting of the stockholders, and by the holders and owners of any or all of the bonds of the corporation foreclosed, or of the bonds issued or to be issued by the new corporation, and such right of voting by bondholders shall be exercised in such manner, for such period, and upon such conditions, as shall be therein described. Such plan or agreement must contain suitable provision for the bondholders voting by proxy and must not be inconsistent with the laws of the state and shall be binding upon the corporation, until changed as therein provided, or as otherwise provided by law. The new corporation when duly organized, pursuant to such plan or agree-



ment and to the provisions of law, may issue its bonds and stock in conformity with the provisions of such plan or agreement, and may at any time within six months after its organization, compromise, settle or assume the payment of any debt, claim or liability of the former corporation upon such terms as may be lawfully approved by a majority of the agents or trustees intrusted with the carrying out of the plan or agreement of re-organization, and may establish preferences in respect to the payment of dividends in favor of any portion of its capital stock and may divide its stock into classes, but the capital stock of the new corporation shall not exceed in the aggregate, the maximum amount of stock mentioned in the certificate of incorporation, nor shall the bonds issued by it exceed in the aggregate the amount which a corporation is authorized by the provisions of this article to issue.

§ 5. **Sale of property; possession of receiver and suits against him.**—The supreme court may direct a sale of the whole of the property, rights and franchises covered by the mortgage or mortgages, or deeds of trust foreclosed at any one time and place to be named in the judgment or order, either in case of the non-payment of interest only, or of both the principal and interest due and unpaid and secured by any such mortgage or mortgages or deeds of trust. Neither the sale nor the formation of the new corporation shall interfere with the authority or possession of any receiver of such property and franchises, but he shall remain liable to be removed or discharged at such time as the court may deem proper. No suit or proceeding shall be commenced against such receiver unless founded on willful misconduct or fraud in his trust after the expiration of sixty days from the time of his discharge; but after the expiration of sixty days the new corporation shall be liable in any action that may be commenced against it, and founded on any act or omission of such receiver for which he may not be sued, and to the same extent as the receiver, but for this section would be or remain liable, or to the same extent that the new corporation would be had it done or omitted the acts complained of.

§ 6. **Stockholders may assent to plan of readjustment.**—Every stockholder in any corporation, the franchises and property whereof shall have been thus sold, may assent to the plan of readjustment and re-organization of interests pursuant to which such franchises and property shall have been purchased at any time within six months after the organization of the new corporation, and by complying with the terms and conditions of such plan become enti-

## THE GENERAL CORPORATION LAW.

Ch. 85, G. L.

LAWS OF	Chapter	Section.
1884.....	223.....	All.
1884.....	252.....	All.
1884.....	267.....	All.
1884.....	367.....	All.
1884.....	386.....	All.
1884.....	397.....	All.
1884.....	421.....	All.
1884.....	422.....	All.
1884.....	439.....	All.
1884.....	441.....	All.
1884.....	444.....	All.
1885.....	84.....	All.
1885.....	127.....	All.
1885.....	141.....	All.
1885.....	153.....	All.
1885.....	171.....	All.
1885.....	305.....	All.
1885.....	369.....	All.
1885.....	422.....	All.
1885.....	423.....	All.
1885.....	489.....	All.
1885.....	498.....	All.
1885.....	535.....	All.
1885.....	540.....	All.
1885.....	549.....	All.
1886.....	65.....	All.
1886.....	182.....	All.
1886.....	271.....	All.
1886.....	321.....	All.
1886.....	322.....	All.
1887.....	403.....	All.
1886.....	415.....	All.
1886.....	509.....	All.
1886.....	551.....	All.
1886.....	579.....	All.
1886.....	586.....	All.
1886.....	592.....	All.
1886.....	601.....	All.
1886.....	605.....	All.
1886.....	634.....	All.
1886.....	642.....	All.
1887.....	450.....	All.
1887.....	486.....	All.
1887.....	536.....	All.
1887.....	570.....	All.
1887.....	616.....	All.
1887.....	622.....	All.
1887.....	724.....	All.

**CHAP. 687] ONE HUNDRED AND FIFTEENTH SESSION. 1823****Ch. 35, G. L.      THE GENERAL CORPORATION LAW.**

<b>LAWS OF</b>	<b>Chapter</b>	<b>Section.</b>
1888.....	189.....	All.
1888.....	306.....	All.
1888.....	313.....	All.
1888.....	359.....	All.
1888.....	394.....	All.
1888.....	447.....	All.
1888.....	462.....	All.
1888.....	513.....	All.
1888.....	514.....	All.
1888.....	549.....	All.
1888.....	560.....	All.
1889.....	57.....	All.
1889.....	76.....	All.
1889.....	78.....	All.
1889.....	236.....	All.
1889.....	242.....	All.
1889.....	281.....	All.
1889.....	332.....	All.
1889.....	369.....	All.
1889.....	426.....	All.
1889.....	519.....	All.
1889.....	524.....	All.
1889.....	531.....	All.
1889.....	532.....	All.
1889.....	564.....	All.
1890.....	23.....	All.
1890.....	98.....	All.
1890.....	119.....	All.
1890.....	193.....	All.
1890.....	292.....	All.
1890.....	416.....	All.
1890.....	421.....	All.
1890.....	483.....	All.
1890.....	497.....	All.
1890.....	505.....	All.
1890.....	508.....	All.
1890.....	548.....	All.
1891.....	57.....	All.
1891.....	287.....	All.
1892.....	2.....	All.

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8. Stock; stockholders, their rights and liabilities. (§§ 40-55).

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**SECTION 1.** Short title, and application of chapter.

2. Power to borrow money and mortgage property.

3. Reorganization upon sale of corporate property and franchises.

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and ninety-one, shall not exceed the amount of its paid up capital stock, or an amount equal to two-thirds of the value of its corporate property at the time of issuing the obligations secured by such mortgages, in case such two-thirds value shall be more than the amount of such paid up capital stock. No such mortgages, except purchase-money mortgages shall be issued without the consent, of the stockholders owning at least two-thirds of of\* the stock of the corporation, which consent shall be in writing and shall be filed and recorded in the office of the clerk or register of the county where it has its principal place of business, or shall be given by vote at a special meeting of the stockholders called for that purpose; and a certificate of the vote at such meeting, signed and sworn to by the chairman and secretary of such meeting, shall be filed and recorded as aforesaid. When authorized by such consent, the directors, under such regulations as they may adopt, may confer on the holder of any debt or obligation secured by such mortgage the right to convert the principal thereof, after two and not more than twelve years from the date of the mortgage, into stock of the corporation; and if the capital stock shall not be sufficient to meet the conversion when made, the stockholders shall, in the manner herein provided, authorize an increase of capital stock sufficient for that purpose.

**§ 3. Reorganization upon sale of corporate property and franchises.**—When the property and franchises of any domestic stock corporation shall be sold by virtue of a mortgage or deed of trust, duly executed by it, or pursuant to the judgment or decree of a court of competent jurisdiction, or by virtue of any execution issued thereon, and the purchaser at such sale shall acquire title to the same in the manner prescribed by law, he may associate with him any number of persons, not less than the number required by law for the incorporation of such corporation, a majority of whom shall be citizens and residents of this state, and they may become a corporation, and take and possess the property and franchises thus sold, and which were at the time of sale possessed by the corporation whose property shall have been so sold, upon making, acknowledging and filing in the offices where certificates of incorporation are required by law to be filed, a certificate in which they shall describe by name and reference to the law under which it was organized, the corporation whose property and franchises they have acquired, and the court by whose authority the sale had been

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\* So in the original.

made, with the date of the judgment or decree authorizing or directing the same, and a brief description of the property sold, and also the following particulars:

1. The name of the new corporation intended to be formed by the filing of such certificate.

2. The maximum amount of its capital stock and the number of shares into which it is to be divided, specifying the classes thereof, whether common or preferred, and the amount of and rights pertaining to each class.

3. The number of directors, not less nor more than the number required by law for the old corporation, who shall manage the affairs of the new corporation, and the names and post-office address of the directors for the first year.

4. Any plan or agreement which may have been entered into at or previous to the time of sale, in anticipation of the formation of the new corporation, and pursuant to which such purchase was made. Such corporation shall be vested with and be entitled to exercise and enjoy all the rights, privileges and franchises, which at the time of such sale belonged to, or were vested in the corporation, last owning the property sold, or its receiver, and shall be subject to all the provisions, duties and liabilities imposed by law on such corporations.

§ 4. Contents of plan or agreement.—At or previous to the sale the purchasers thereat, or the persons for whom the purchase is to be made, may enter into a plan or agreement, for or in anticipation of the readjustment of the respective interests therein of the mortgage creditors and stockholders of the corporation owning such property and franchises at the time of sale, and for the representation of such interests of creditors and stockholders in the bonds or stock of the new corporation to be formed, and may therein regulate voting by the holders of the preferred and common stock at any meeting of the stockholders, and by the holders and owners of any or all of the bonds of the corporation foreclosed, or of the bonds issued or to be issued by the new corporation, and such right of voting by bondholders shall be exercised in such manner, for such period, and upon such conditions, as shall be therein described. Such plan or agreement must contain suitable provision for the bondholders voting by proxy and must not be inconsistent with the laws of the state and shall be binding upon the corporation, until changed as therein provided, or as otherwise provided by law. The new corporation when duly organized, pursuant to such plan or agree-

ment and to the provisions of law, may issue its bonds and stock in conformity with the provisions of such plan or agreement, and may at any time within six months after its organization, compromise, settle or assume the payment of any debt, claim or liability of the former corporation upon such terms as may be lawfully approved by a majority of the agents or trustees intrusted with the carrying out of the plan or agreement of re-organization, and may establish preferences in respect to the payment of dividends in favor of any portion of its capital stock and may divide its stock into classes, but the capital stock of the new corporation shall not exceed in the aggregate, the maximum amount of stock mentioned in the certificate of incorporation, nor shall the bonds issued by it exceed in the aggregate the amount which a corporation is authorized by the provisions of this article to issue.

§ 5. **Sale of property; possession of receiver and suits against him.**—The supreme court may direct a sale of the whole of the property, rights and franchises covered by the mortgage or mortgages, or deeds of trust foreclosed at any one time and place to be named in the judgment or order, either in case of the non-payment of interest only, or of both the principal and interest due and unpaid and secured by any such mortgage or mortgages or deeds of trust. Neither the sale nor the formation of the new corporation shall interfere with the authority or possession of any receiver of such property and franchises, but he shall remain liable to be removed or discharged at such time as the court may deem proper. No suit or proceeding shall be commenced against such receiver unless founded on willful misconduct or fraud in his trust after the expiration of sixty days from the time of his discharge; but after the expiration of sixty days the new corporation shall be liable in any action that may be commenced against it, and founded on any act or omission of such receiver for which he may not be sued, and to the same extent as the receiver, but for this section would be or remain liable, or to the same extent that the new corporation would be had it done or omitted the acts complained of.

§ 6. **Stockholders may assent to plan of readjustment.**—Every stockholder in any corporation, the franchises and property whereof shall have been thus sold, may assent to the plan of readjustment and re-organization of interests pursuant to which such franchises and property shall have been purchased at any time within six months after the organization of the new corporation, and by complying with the terms and conditions of such plan become enti-



tled to his pro rata benefits therein. The commissioners, corporate authorities or proper officers of any city, town or village, who may hold stock in any corporation, the property and franchises whereof, shall be liable to be sold, may assent to any plan or agreement of re-organization which lawfully provides for the formation of a new corporation, and the issue of stock therein to the proper authorities or officers of such cities, towns or villages in exchange for the stock of the old or former corporation by them respectively held. And such commissioners, corporate authorities or other proper officers may assign, transfer or surrender the stock so held by them in the manner required by such plan, and accept in lieu thereof the stock issued by such new corporation in conformity therewith.

§ 7. **Combinations prohibited.**—No stock corporation shall combine with any other corporation or person for the creation of a monopoly or the unlawful restraint of trade or for the prevention of competition in any necessary of life.

## ARTICLE II.

### DIRECTORS AND OFFICERS. THEIR ELECTION, DUTIES AND LIABILITIES.

#### SECTION 20. Directors.

21. Change of number of directors.
22. When acts of directors void.
23. Liability of directors for making unauthorized dividends.
24. Liability of directors for contracting unauthorized debts and over issue of bonds.
25. Liability of directors for loans to stockholders.
26. Transfers of stock by stockholders indebted to corporation.
27. Officers.
28. Inspectors and their oath.
29. Books to be kept.
30. Annual report.
31. Liability of officers for false certificates, reports or public notices.
32. Alteration or extension of business.

§ 20. **Directors.**—The directors of every stock corporation shall be chosen from the stockholders at the time and place fixed by the by-laws of the corporation by a plurality of the votes of the stockholders voting at such election. Vacancies in the board of directors shall be filled in the manner prescribed in the by-laws, and if a director shall cease to be a stockholder his office shall become vacant. Notice of the time and place of holding any election of directors shall be given by publication thereof, at least once in each week for two successive weeks immediately preceding such election, in a newspaper published in the county where such election is to be held,

and in such other manner as may be prescribed in the by-laws. Policy holders of an insurance corporation shall be eligible to election as directors. At least one-fourth in number of the directors of every stock corporation shall be elected annually.

§ 21. **Change of number of directors.**—The number of directors of any stock corporation may be increased or reduced, but not above the maximum nor below the minimum number prescribed by law, when the stockholders owning a majority of the stock of the corporation shall so determine, at a meeting to be held at the usual place of meeting of the directors, on two weeks' notice in writing to each stockholder of record. Such notice shall be served personally or by mail, directed to each stockholder at his last known post-office address. Proof of the service of such notice shall be filed in the office of the corporation at or before the time of such meeting. The proceedings of such meeting shall be entered in the minutes of the corporation and a transcript thereof, verified by the president and secretary of the meeting shall be filed in the offices where the original certificates of incorporation were filed. If a corporation formed under or subject to the banking law, the consent of the superintendent of banks, and if an insurance corporation, the consent of the superintendent of insurance, shall be first obtained to such increase or reduction of the number of directors.

§ 22. **When acts of directors void.**—When the directors of any corporation for the first year of its corporate existence shall hold over and continue to be directors after the first year, because of their neglect or refusal to adopt the by-laws required to enable the stockholders to hold the annual election for directors, all their acts and proceedings while so holding over, done for and in the name of the corporation, designed to charge upon it any liability or obligation for the services of any such director, or any officer, or attorney or counsel appointed by them, and every such liability or obligation shall be held to be fraudulent and void.

§ 23. **Liability of directors for making unauthorized dividends.**—The directors of a stock corporation shall not make dividends, except from the surplus profits arising from the business of such corporation; nor divide, withdraw or in any way pay to the stockholders, or any of them, any part of the capital of such corporation, or reduce its capital stock, except as authorized by law. In case of any violation of the provisions of this section, the directors under whose administration the same may have happened, except those who may have caused their dissent therefrom to be entered at

large upon the minutes of such directors at the time, or were not present when the same happened, shall jointly and severally be liable to such corporation and to the creditors thereof to the full amount of the capital of such corporation so divided, withdrawn, paid out or reduced. But this section shall not prevent a division and distribution of the assets of any such corporation remaining after the payment of all its debts and liabilities upon the dissolution of such corporation or the expiration of its charter.

**§ 24. Liability of directors for unauthorized debts and over-issue of bonds.**—No stock corporation, except a monied corporation, shall create any debt, if thereby its total indebtedness not secured by mortgage shall exceed the amount of its paid-up capital stock, and the directors creating or consenting to the creation of any such debt shall be personally liable therefor to the creditors of the corporation. If bonds or other obligations of the corporation, secured by mortgage, are issued in excess of the amount authorized by law, or in violation of law, the directors voting for such over-issue, or unlawful issue, shall be personally liable to the holders of the bonds or other obligations illegally issued for the amount held by them, and to all persons sustaining damage by such illegal issues for any damage caused thereby.

**§ 25. Liability of directors for loans to stockholders.**—No loan of moneys shall be made by any stock corporation, except a monied corporation, or by any officer thereof out of its funds to any stockholder therein, nor shall any such corporation or officer discount any note or other evidence of debt, or receive the same in payment of any installment or any part thereof due or to become due on any stock in such corporation, or receive or discount any note, or other evidence of debt, to enable any stockholder to withdraw any part of the money paid in by him on his stock. In case of the violation of any provision of this section, the officers or directors making such loan, or assenting thereto, or receiving or discounting such notes or other evidences of debt, shall, jointly and severally, be personally liable to the extent of such loan and interest, for all the debts of the corporation contracted before the repayment of the sum loaned, and to the full amount of the notes or other evidences of debt so received or discounted, with interest from the time such liability accrued.

**§ 26. Transfers of stock by stockholder indebted to corporation.**—If a stockholder shall be indebted to the corporation, the directors may refuse to consent to a transfer of his stock until such indebtedness is paid, provided a copy of this section is written or printed upon the certificate of stock.

§ 27. **Officers.**—The directors of a stock corporation may appoint from their number a president, and may appoint a secretary, treasurer, and other officers, agents and employes, who shall respectively have such powers and perform such duties in the management of the property and affairs of the corporation, subject to the control of the directors, as may be prescribed by them or in the by-laws. The directors may require any such officer, agent or employe to give security for the faithful performance of his duties, and may remove him at pleasure. The policy holders of an insurance corporation shall be eligible to election or appointment as its officers.

§ 28. **Inspectors and their oath.**—The inspectors of election of every stock corporation shall be appointed in the manner prescribed in the by-laws, but the inspectors of the first election of directors and of all previous meetings of the stockholders shall be appointed by the board of directors named in the certificate of incorporation. No director or officer of a monied corporation shall be eligible to election or appointment as inspector. Each inspector shall be entitled to a reasonable compensation for his services, to be paid by the corporation, and if any inspector shall refuse to serve, or neglect to attend at the election, or his office become vacant, the meeting may appoint an inspector in his place unless the by-laws otherwise provide. The inspectors appointed to act at any meeting of the stockholders shall, before entering upon the discharge of their duties, be sworn to faithfully execute the duties of inspector at such meeting with strict impartiality, and according to the best of their ability, and the oath so taken shall be subscribed by them, and immediately filed in the office of the clerk of the county in which such election or meeting shall be held, with a certificate of the result of the vote taken thereat.

§ 29. **Books to be kept.**—Every stock corporation shall keep at its office, correct books of account of all its business and transactions, and a book to be known as the stock-book, containing the names, alphabetically arranged, of all persons who are stockholders of the corporation, showing their places of residence, the number of shares of stock held by them respectively, the time when they respectively became the owners thereof, and the amount paid thereon. The stock-book of every such corporation shall be open daily, during business hours, for the inspection of its stockholders and judgment creditors, who may make extracts therefrom. No transfer of stock shall be valid as against the corporation, its stockholders and creditors for any purpose, except to render the transferee liable for the debts of the corporation according to the provisions of this

chapter, until it shall have been entered in such book as required by this section, by an entry showing from and to whom transferred. Such latter book shall be presumptive evidence of the facts therein so stated in favor of the plaintiff, in any action or proceeding against such corporation or any of its officers, directors or stockholders. Every corporation that shall neglect or refuse to keep or cause to be kept such books, or to keep any book open for inspection as herein required, shall forfeit to the people the sum of fifty dollars for every day it shall so neglect or refuse. If any officer or agent of any such corporation shall willfully neglect or refuse to make any proper entry in such book or books, or shall neglect or refuse to exhibit the same, or allow them to be inspected and extracts taken therefrom as provided in this section, the corporation and such officer or agent shall each forfeit and pay to the party injured a penalty of fifty dollars for every such neglect or refusal, and all damages resulting to him therefrom.

§ 30. **Annual report.**—Every stock corporation, except monied and railroad corporations, shall annually, during the month of January, or, if doing business without the United States, before the first day of May, make a report as of the first day of January, which shall state:

1. The amount of its capital stock, and the proportion actually issued.
2. The amount of its debts or an amount which they do not then exceed.
3. The amount of its assets or an amount which its assets at least equal.

Such report shall be signed by a majority of its directors, and verified by the oath of the president or vice-president and treasurer or secretary, and filed in the office of the secretary of state and in the office of the county clerk of the county where its principal business office may be located. If such report is not so made and filed, all the directors of the corporation shall jointly and severally be personally liable for all the debts of the corporation then existing, and for all contracted before such report shall be made. No director shall be liable for the failure to make and file such report if he shall file with the secretary of state, within thirty days after the first day of February, or the first day of May, as the case may be, a verified certificate, stating that he has endeavored to have such report made and filed, but that the officers or a majority of the directors have refused and neglected to make and file the same, and shall append to such certificate a report containing the items re-

quired to be stated in such annual report, so far as they are within his knowledge or are obtainable from sources of information open to him, and verified by him to be true to the best of his knowledge, information and belief.

§ 31. **Liability of officers for false certificates, reports or public notices.**—If any certificate or report made or public notice given by the officers or directors of a stock corporation shall be false in any material representation, the officers and directors signing the same shall jointly and severally be personally liable to any person who has become a creditor or stockholder of the corporation upon the faith of any such certificate, report, notice or any material representation therein to the amount of the debt contracted upon the faith thereof if not paid when due, or of the damage sustained by any purchaser of or subscriber to its stock upon the faith thereof. The liability imposed by this section shall exist in all cases where the contents of any such certificate, report or notice or of any material representation therein shall have been communicated either directly or indirectly to the person so becoming a creditor or stockholder and he became such creditor or stockholder upon the faith thereof. No action can be maintained for a cause of action created by this section unless brought within two years from the time the certificate, report or public notice shall have been made or given by the officers or directors of such corporation.

§ 32. **Alteration or extension of business.**—Any stock corporation heretofore or hereafter organized under any general or special law of this state may extend or alter its business and powers so as to include any purposes and powers which at the time of such extension may have been conferred by law upon corporations engaged in a business of the same general character, or which might be included in the certificate of incorporation of a corporation organizing under any general law of this state for a business of the same general character, by filing in the manner provided for the original certificate of incorporation an amended certificate, executed by a majority of its directors, stating the extension of business and powers and rights proposed, and that the same has been duly authorized by a vote of stockholders representing at least three-fifths of the capital stock, at a meeting of the stockholders called for the purpose in the manner provided in section forty-five of this chapter, and a copy of the proceedings of such meeting, verified by the affidavit of one of the directors present thereat, shall be filed with such amended certificate.



## ARTICLE III.

## STOCK; STOCKHOLDERS, THEIR RIGHTS AND LIABILITIES.

## SECTION 40. Issue and transfers of stock.

41. Subscriptions to stock.
42. Consideration for issue of stock and bonds.
43. Time of payment of subscriptions to stock.
44. Increase or reduction of capital stock.
45. Notice of meeting to increase or reduce capital stock.
46. Conduct of such meeting; certificate of increase or reduction.
47. Preferred and common stock.
48. Prohibited transfers to officers or stockholders.
49. Payment by stockholders of mortgage debt pending foreclosure.
50. Application to court to order issue of new in place of lost certificate of stock.
51. Order of court upon such application.
52. Financial statement to stockholders.
53. Exhibition of books by transfer agent of foreign corporation.
54. Liabilities of stockholders.
55. Limitation of stockholder's liability.

§ 40. **Issue and transfers of stock.**—The stock of every stock corporation shall be represented by certificates prepared by the directors and signed by the president or vice-president and secretary or treasurer and sealed with the seal of the corporation, and shall be transferable in the manner prescribed in this chapter and in the by-laws. No share shall be transferable until all previous calls thereon shall have been fully paid in.

Any stock corporation, domestic or foreign, now existing or hereafter organized, except monied corporations, may purchase, acquire, hold and dispose of the stocks, bonds and other evidences of indebtedness of any corporation, domestic or foreign, and issue in exchange therefor its stock, bonds or other obligations if authorized so to do by a provision in the certificate of incorporation of such stock corporation, or in any certificate amendatory thereof or supplementary thereto, filed in pursuance of law, or if the corporation whose stock is so purchased, acquired, held or disposed of, is engaged in a business similar to that of such stock corporation, or engaged in the manufacture, use or sale of the property, or in the construction or operation of works necessary or useful in the business of such stock corporation, or in which or in connection with which the manufactured articles, product or property of such stock corporation are or may be used, or is a corporation with which such stock corporation is or may be authorized to consolidate. When any such corporation shall be a stockholder in any other corporation, as herein



provided, its president or other officers shall be eligible to the office of director of such corporation, the same as if they were individually stockholders therein and the corporation holding such stock shall possess and exercise in respect thereof, all the rights, powers and privileges of individual owners or holders of such stock.

Any stock corporation may, in pursuance of a unanimous vote of its stockholders voting at a special meeting called for that purpose by notice in writing signed by a majority of the directors of such corporation stating the time and place and object of the meeting, and served upon each stockholder appearing as such upon the books of the corporation, personally or by mail at his last-known post-office address at least sixty days prior to such meeting, guarantee the bonds of any other domestic corporation engaged in the same general line of business.

**§ 41. Subscriptions to stock.**—If the whole capital stock shall not have been subscribed at the time of filing the certificate of incorporation, the directors named in the certificate may open books of subscription to fill up the capital stock in such places, and after giving such notices as they may deem expedient, and may continue to receive subscriptions until the whole capital stock is subscribed. At the time of subscribing, every subscriber, whose subscription is payable in money, shall pay to the directors ten per centum upon the amount subscribed by him in cash, and no such subscription shall be received or taken without such payment.

**§ 42. Consideration for issue of stock and bonds.**—No corporation shall issue either stock or bonds except for money, labor done or property actually received for the use and lawful purposes of such corporation. No such stock shall be issued for less than its par value.

No such bonds shall be issued for less than the fair market value thereof.

**§ 43. Time of payment of subscriptions to stock.**—Subscriptions to the capital stock of a corporation shall be paid at such times and in such installments as the board of directors may by resolution require. If default shall be made in the payment of any installment as required by such resolution, the board may declare the stock and all previous payments thereon forfeited for the use of the corporation, after the expiration of sixty days from the service on the defaulting stockholder, personally or by mail directed to him at his last-known post-office address, of a written notice requiring him to make payment within sixty days from the service of the notice at a place specified therein, and stating that, in case of failure to do so,

his stock and all previous payments thereon will be forfeited for the use of the corporation.

Such stock, if forfeited, may be reissued or subscriptions therefor may be received as in the case of stock not issued or subscribed for. If not sold for its par value or subscribed for within six months after such forfeiture, it shall be canceled and deducted from the amount of the capital stock. If by such cancellation, the amount of the capital stock is reduced below the minimum required by law, the capital stock shall be increased to the required amount within three months thereafter or an action may be brought or proceedings instituted to close up the business of the corporation as in the case of an insolvent corporation. If a receiver of the assets of the corporation has been appointed, all unpaid subscriptions to the stock shall be paid at such times and in such installments as the receiver or the court may direct.

§ 44. **Increase or reduction of capital stock.**—Any domestic corporation may increase or reduce its capital stock in the manner herein provided, but not above the maximum or below the minimum amount, if any, prescribed by law. If increased, the holders of the additional stock issued shall be subject to the same liabilities with respect thereto as are provided by law in relation to the original capital; if reduced, the amount of its debts and liabilities shall not exceed the amount of its reduced capital, unless an insurance corporation in which case the amount of its debts and liabilities shall not exceed the amount of its reduced capital and other assets. The owner of any stock shall not be relieved from any liability existing prior to the reduction of the capital stock of any stock corporation.

§ 45. **Notice of meeting to increase or reduce capital stock.**—Every such increase or reduction must be authorized by a vote of the stockholders owning at least two-thirds of the stock of the corporation, taken at a meeting of the stockholders specially called for that purpose. Notice of the meeting, stating the time, place and object, and the amount of the increase or reduction proposed, signed by a majority of the directors, shall be published once a week, for at least two successive weeks, in a newspaper in the county where its principal business office is located, if any is published therein, and a copy of such notice shall be personally served upon or duly mailed to each stockholder or member at his last-known post-office address at least three weeks before the meeting.

§ 46. **Conduct of such meeting; certificate of increase or reduction.**—If, at the time and place specified in the notice, the stockholders shall appear in person or by proxy, in numbers representing

at least two-thirds of all the shares of stock, they shall organize by choosing from their number a chairman and secretary, and take a vote of those present in person or by proxy, and if a sufficient number of votes shall be given in favor of such increase or reduction, a certificate of the proceedings, showing a compliance with the provisions of this chapter, the amount of capital actually paid in, the whole amount of debts and liabilities of the corporation, and the amount of the increased or reduced capital stock, shall be made, signed, verified and acknowledged by the chairman and secretary of the meeting, and filed in the office of the clerk of the county where its principal place of business shall be located, and a duplicate thereof in the office of the secretary of state. In case of a reduction of the capital stock, except of a railroad corporation, or a monied corporation, such certificate shall have indorsed thereon the approval of the comptroller, to the effect that the reduced capital is sufficient for the proper purposes of the corporation, and is in excess of its debts and liabilities, and in case of the increase, or reduction of the capital stock of a railroad corporation, or a monied corporation, the certificate shall have indorsed thereon the approval of the board of railroad commissioners, if a railroad corporation ; of the superintendent of banks, if a corporation formed under or subject to the banking law ; and of the superintendent of insurance, if an insurance corporation.

When the certificate herein provided for has been filed, the capital stock of such corporation shall be increased or reduced, as the case may be, to the amount specified in such certificate. The proceedings of the meeting at which such increase or reduction is voted, shall be entered upon the minutes of the corporation. If the capital stock is reduced, the amount of capital over and above the amount of the reduced capital shall be returned to the stockholders pro rata at such times and in such manner as the directors shall determine.

§ 47. Preferred and common stock.—Every domestic stock corporation may have preferred and common stock, and different classes of preferred stock, if the certificate of incorporation so provides or by the unanimous consent of the stockholders, and may, upon the written request of the holder of any preferred stock, by a two-thirds vote of its directors, exchange the same for common stock, and issue certificates for common stock therefor, share for share, or upon such other valuation as may have been agreed upon in the scheme for the organization of such corporation, or the issue of such preferred stock, but the total amount of such capital stock shall not be increased thereby.

**§ 48. Prohibited transfers to officers or stockholders.**--No corporation which shall have refused to pay any of its notes or other obligations when due, in lawful money of the United States, nor any of its officers or directors, shall transfer any of its property to any of its officers, directors or stockholders, directly or indirectly, for the payment of any debt, or upon any other consideration than the full value of the property paid in cash. No conveyance, assignment or transfer of any property of any such corporation by it or by any officer, director or stockholder thereof, nor any payment made, judgment suffered, lien created or security given by it or by any officer, director or stockholder when the corporation is insolvent or its insolvency is imminent, with the intent of giving a preference to any particular creditor over other creditors of the corporation shall be valid.

Every person receiving by means of any such prohibited act or deed any property of the corporation shall be bound to account therefor to its creditors or stockholders or other trustees.

No stockholder of any such corporation shall make any transfer or assignment of his stock therein to any person in contemplation of its insolvency. Every transfer or assignment or other act done in violation of the foregoing provisions of this section shall be void.

No conveyance, assignment or transfer of any property of a corporation formed under or subject to the banking law, exceeding in value one thousand dollars shall be made by such corporation, or by any officer or director thereof, unless authorized by a previous resolution of its board of directors, except promissory notes or other evidences of debt issued or received by the officers of the corporation in the transaction of its ordinary business and except payments in specie or other current money or in bank bills made by such officers. No such conveyance, assignment or transfer shall be void in the hands of a purchaser for a valuable consideration without notice.

Every director or officer of a corporation who shall violate or be concerned in violating any provision of this section, shall be personally liable to the creditors and stockholders of the corporation of which he shall be director or an officer to the full extent of any loss they may respectively sustain by such violation.

**§ 49. Payment by stockholders of mortgage debt pending foreclosure.**--Whenever default shall be made by any corporation in the payment of principal or interest of any of its bonds secured by mortgage or deed of trust of its property, any stockholder may at any time during the pendency of the foreclosure of such mortgage or deed of trust and before the sale thereunder pay to

the mortgagees or grantees in such mortgage or deed, for the use and benefit of the holders of such bonds, a sum equal to such proportion of the amount due and secured to be paid by such mortgage or deed, as his stock in such corporation shall bear to its whole capital stock, and on making such payment he shall to the extent thereof become and be interested in such mortgage or deed and protected thereby.

§ 50. **Application to court to order issue of new in place of lost certificate of stock.**—The owner of a lost or destroyed certificate of stock, if the corporation shall refuse to issue a new certificate in place thereof, may apply to the supreme court, at any special term held in the district where he resides, or in which the principal business office of the corporation is located, for an order requiring the corporation to show cause why it should not be required to issue a new certificate in place of the one lost or destroyed. The application shall be by petition, duly verified by the owner, stating the name of the corporation, the number and date of the certificate, if known, or if it can be ascertained by the petitioner; the number of shares named therein, to whom issued, and as particular a statement of the circumstances attending such loss or destruction as the petitioner can give. Upon the presentation of the petition the court shall make an order requiring the corporation to show cause, at a time and place therein mentioned, why it should not issue a new certificate of stock in place of the one described in the petition. A copy of the petition and order shall be served on the president or other head of the corporation, or on the secretary or treasurer thereof, personally, at least ten days before the time for showing cause.

§ 51. **Order of court upon such application.**—Upon the return of the order, with proof of due service thereof, the court shall, in a summary manner, and in such mode as it may deem advisable, inquire into the truth of the facts stated in the petition, and hear the proofs and allegations of the parties in regard thereto, and if satisfied that the petitioner is the lawful owner of the number of shares, or any part thereof, described in the petition, and that the certificate therefor has been lost or destroyed, and cannot after due diligence be found, and that no sufficient cause has been shown why a new certificate should not be issued, it shall make an order requiring the corporation, within such time as shall be therein designated, to issue and deliver to the petitioner a new certificate for the number of shares specified in the order, upon depositing such security, or filing a bond in such form and with such sureties as to the court shall appear sufficient to indemnify any person other than the petitioner

who shall thereafter be found to be the lawful owner of the certificate lost or destroyed; and the court may direct the publication of such notice, either before or after making such order as it shall deem proper. Any person claiming any rights under the certificates alleged to have been lost or destroyed shall have recourse to such indemnity, and the corporation shall be discharged from all liability to such person upon compliance with such order; and obedience to the order may be enforced by attachment against the officer or officers of the corporation on proof of his or their refusal to comply with it.

§ 52. **Financial statement to stockholders.**—Stockholders owning five per centum of the capital stock of any corporation other than a monied corporation, not exceeding one hundred thousand dollars, or three per centum where it exceeds one hundred thousand dollars, may make a written request to the treasurer or chief fiscal officer thereof, for a statement of its affairs, under oath, embracing a particular account of all its assets and liabilities, and the treasurer shall make such statement and deliver it to the person presenting the request within thirty days thereafter, and keep on file for twelve months thereafter a copy of such statement, which shall at all times during business hours be exhibited to any stockholder demanding an examination thereof; but the treasurer or such chief fiscal officer shall not be required to deliver more than one such statement in any one year. The supreme court, or any justice thereof, may upon application, for good cause shown, extend the time for making and delivering such certificate. For every neglect or refusal of the treasurer or other chief fiscal officer thereof to comply with the provisions of this section he shall forfeit and pay to the person making such request the sum of fifty dollars, and the further sum of ten dollars for every twenty-four hours thereafter until such statement shall be furnished.

§ 53. **Exhibition of books by transfer agent of foreign corporation.**—The transfer agent in this state of any foreign corporation whether such agent shall be a corporation or a natural person, shall, at all times during the usual hours of transacting business, exhibit to any stockholder of such corporation, when required by him, the transfer book, and a list of the stockholders thereof, if in his power to do so, and for every violation of the provisions of this section, such agent, or any officer or clerk of such agent, shall forfeit the sum of two hundred and fifty dollars, to be recovered by the person to whom such refusal was made.



§ 54. **Liabilities of stockholders.**—The stockholders of every stock corporation shall, jointly and severally, be personally liable to its creditors, to an amount equal to the amount of the stock held by them respectively, for every debt of the corporation, until the whole amount of its capital stock issued and outstanding at the time such debt was incurred shall have been fully paid. The stockholders of every stock corporation shall, jointly and severally be personally liable for all debts due and owing to any of its laborers, servants or employes other than contractors, for services performed by them for such corporation. Before such laborer, servant or employe shall charge such stockholder for such services, he shall give him notice in writing, within thirty days after the termination of such services that he intends to hold him liable, and shall commence an action therefor within thirty days after the return of an execution unsatisfied against the corporation upon a judgment recovered against it for services. No person holding stock in any corporation as collateral security, or as executor, administrator, guardian or trustee, unless he shall have voluntarily invested the trust funds in such stock, shall be personally subject to liability as a stockholder; but the person pledging such stock shall be considered the holder thereof, and shall be liable as stockholder; and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in the like manner and to the same extent as the testator or intestate, or the ward, or person interested in such trust fund would have been, if he had been living and competent to act and held the same stock in his own name, unless it appears that such executor, administrator, guardian or trustee voluntarily invested the trust funds in such stocks, in which case he shall be personally liable as a stockholder.

§ 55. **Limitation of stockholder's liability.**—No action shall be brought against a stockholder for any debt of the corporation until judgment therefor has been recovered against the corporation, and an execution thereon has been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable, with costs against the stockholder. No stockholder shall be personally liable for any debt of the corporation not payable within two years from the time it is contracted, nor unless an action for its collection shall be brought against the corporation within two years after the debt becomes due; and no action shall be brought against a stockholder after he shall have ceased to be a stockholder, for any debt of the corporation, unless brought within two years from the time he shall have ceased to be a stockholder.



**CHAP. 689.**

**AN ACT** in relation to banking corporations.

**APPROVED** by the Governor May 18, 1892. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

**CHAPTER XXXVII OF THE GENERAL LAWS.****THE BANKING LAW.**

- ARTICLE 1.** General provisions (§§ 1-33).
2. Banks (§§ 40-92).
  3. Savings banks (§§ 100-135).
  4. Trust companies (§§ 150-168).
  5. Building and mutual loan corporations (§§ 170-175).
  6. Co-operative loan associations (§§ 180-191).
  7. Mortgage, loan and investment corporations (§§ 200-205).
  8. Safe deposit companies (§§ 210-216).

**ARTICLE I.****GENERAL PROVISIONS.**

- SECTION 1.** Short title.
2. Definitions.
  3. The banking department; superintendent.
  4. Official seal of superintendent of banks.
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  9. Examination of securities deposited.
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  11. Examiners.
  12. Examination and certificate as to payment of capital.
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**SECTION 23. Annual report of superintendent.**

24. Reports presumptive evidence.

25. Restrictions.

26. Calculation of profits.

27. Losses in excess of profits.

28. Publication of unclaimed dividends and deposits.

29. Change of location.

30. Approval and certificate of superintendent upon incorporation.

31. Permission and certificate of superintendent in case of foreign corporation.

32. Appointment of superintendent as attorney for service of process.

33. Appointment of receiver.

**SECTION 1. Short title.**—This chapter shall be known as the banking law, and shall be applicable to all corporations and individuals specified in the next section.

**§ 2. Definitions.**—The term bank, when used in this chapter means any monied corporation authorized by law to issue bills, notes or other evidences of debt for circulation as money, or to receive deposits of money and commercial paper and to make loans thereon, and to discount bills, notes or other commercial paper, and to buy and sell gold and silver bullion or foreign coins or bills of exchange.

The term, individual banker, when so used, means a person who has complied with the requirements of law, and is authorized by the banking department to engage in the business of banking, and is subject to the supervision of the superintendent of banks and the banking law.

The term savings bank, when so used, means a corporation only authorized by the laws of this state to receive money on deposit and pay such rates of interest thereon, and to invest the same in such securities and obligations, as may be prescribed by law.

The term, trust company, when so used, means any domestic corporation formed for the purpose of taking, accepting and executing such trusts as may be lawfully committed to it and acting as trustee in the cases prescribed by law, and receiving deposits of moneys and other personal property, and issuing its obligations therefor, and of loaning money on real or personal securities.

The term, building and mutual loan corporations or associations, when so used, means a corporation formed for the purpose of accumulating a fund for the purchase of real property, the erection of buildings, or the making of other improvements on lands, or to pay off incumbrances thereon, or to aid its members in acquiring real property, making improvements thereon or removing incumbrances therefrom, or of accumulating a fund to be returned to its members in specified cases.

The term, co-operative loan association, when so used means a corporation formed for the purpose of encouraging industry, frugality, home-building and the saving of money by its members, the accumulation of savings, the loaning of such accumulations to its members, and the repayment to each member of his savings when they have accumulated to a certain sum, or at any time when he shall desire the same, or the association shall desire to repay the same.

The term, building and mutual loan corporations or associations, and, co-operative loan associations, shall include every corporation, company or association doing business in this state and having for a part of its title or name the words building association, building and loan association, savings and loan association, savings association or co-operative bank, and every corporation, company or association whose stock is wholly or in part payable by a cumulative fund in regular or periodical installments, or which is doing business in the form and of a character similar to that authorized by articles five and six of this chapter organized or incorporated in any state or country outside of this state.

The term, mortgage, loan or investment corporation, when so used, means any corporation other than an insurance corporation formed under the laws of this state or of any other state, and doing business in this state for the purpose of selling, offering for sale, or negotiating bonds or notes secured by deed of trust or mortgages on real property or choses in action, owned, issued, negotiated or guaranteed by it, or for the purpose of receiving any money or property, either from its own members or from other persons, and entering into any contract, engagement or undertaking with them for the withdrawal of such money or property at any time with any increase thereof, or for the payment to them or to any person of any sum of money at any time, either fixed or uncertain; and when applied to any foreign corporation doing business in this state shall include any association, co-partnership, joint-stock company, individuals or firms organized or existing under the laws of any other state or country, and engaged within this state in any such business.

The term, safe deposit company, when used in this chapter, means every domestic corporation formed for the purpose of taking and receiving upon deposit as bailee for safe-keeping and storage, jewelry, plate, money, specie, bullion, stocks, bonds, securities and valuable papers of any kind, and other valuable personal property, and guaranteeing their safety upon such terms and for such compensation as

may be agreed upon by the company and the respective bailors thereof, and to rent vaults and safes and other receptacles for the purpose of such safe-keeping and storage.

**§ 3. The banking department ; superintendent.**—There shall continue to be a banking department charged with the execution of the laws relating to the corporations and individuals to which this chapter is applicable.

The chief officer of such department shall continue to be the superintendent thereof, to be known as the superintendent of banks, who shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold his office for the term of three years. He shall not either directly or indirectly be interested in any such corporation, or as an individual banker. He shall receive an annual salary of five thousand dollars, to be paid monthly in the first instance out of the treasury on the warrant of the comptroller.

He shall, within fifteen days from the time of notice of his appointment, take and subscribe the constitutional oath of office and file the same in the office of the secretary of state, and execute to the people of the state a bond in the penalty of fifty thousand dollars, with two sureties to be approved by the comptroller and treasurer of the state, conditioned for the faithful discharge of the duties of his office.

**§ 4. Official seal of superintendent of banks.**—The secretary of state shall provide the superintendent of banks with an official seal. Every paper executed by him as such superintendent in pursuance of any authority conferred on him by law, and sealed with his seal of office, shall be received in evidence, and may be recorded in the proper recording offices in the same manner and with the like effect as a deed regularly acknowledged or proven.

**§ 5. Deputy, clerks, and examiners of the bank department.**—The superintendent of banks shall employ from time to time such clerks and examiners as he may need to discharge in a proper manner the duties imposed upon him by law. They shall perform such duties as he shall assign to them. He shall fix their compensation, which shall be paid monthly on his certificate and upon the warrant of the comptroller in the first instance out of the treasury. He shall appoint one of such clerks to be his deputy, who shall within fifteen days from the time of notice of his appointment take and subscribe the constitutional oath of office, and file the same in the office of the secretary of state.

In case of the absence or inability to act, or vacancy in the office

kinds of such securities and the amounts thereof, and that they are in the custody and possession of the superintendent at the date of the receipt. Any individual banker unable to make such examination in person may, by written appointment, authorize an agent to make the same in his behalf, whose receipt shall have the same force and effect as if executed by the banker in person.

If any such corporation or individual banker shall refuse or neglect to make such examination during any fiscal year, the comptroller, secretary of state and superintendent shall appoint some suitable and discreet person as agent for such corporation or individual banker, who shall make such examination, and if the securities so held by the superintendent shall be found to agree with the books of the department, such agent shall execute the receipt before mentioned, and it shall be of like force and effect as if executed by the president or cashier of any such corporation, or by any such individual banker, or by an agent appointed by him. Such corporation or individual banker shall pay on demand to the person so appointed and making such examination and executing such receipt, such compensation for his services and expenses in making such examination as the superintendent shall certify to be just and reasonable.

**§ 10. Unclaimed balances.**—The superintendent shall pay into the treasury of the state all balances of money remaining in his hands unclaimed for six years from the date of the deposit with him, to be applied to the current expenses of the banking department, except the moneys required by this chapter to be kept on deposit with him and the moneys deposited with him by receivers of insolvent savings banks.

**§ 11. Examiners.**—Every examiner appointed by the superintendent shall, before entering upon the duties of his appointment, take and file in the office of the clerk of the county where he resides, the constitutional oath of office; and he shall forthwith examine fully into the books, papers and affairs of the corporation or individual banker specified in his appointment, and report on oath to the superintendent the result of such examination. No such examiner shall be appointed receiver of any corporation or individual banker whose books, papers and affairs he shall have examined pursuant to such appointment.

**§ 12. Examination and certificate as to payment of capital.**—When any such corporation or individual banker shall have filed with the superintendent the requisite certificate prior to commenc-

the department, the dividends or interest on which can be applied in payment thereof, the superintendent shall report to the attorney-general the failure of any such corporation or individual to pay such charges, and the attorney-general shall thereupon bring an action in the name of the people for the recovery of such charges.

**§ 8. Powers of superintendent.**—Every corporation and individual banker specified in section two of this chapter shall be subject to the inspection and supervision of the superintendent of banks. He shall, either personally or by some competent person or persons to be appointed by him, to be known as examiners, visit and examine every such corporation and individual banker, other than savings banks, at least once in each year, and savings banks once in two years. On every such examination inquiry shall be made as to the condition and resources of the corporation, the mode of conducting and managing its affairs, the action of its directors, the investment of its funds, the safety and prudence of its management, the security afforded to those by whom its engagements are held, and whether the requirements of its charter and of law have been complied with in the administration of its affairs; and as to such other matters as the superintendent may prescribe.

He shall have power in like manner to examine every corporation and individual banker specified in section two, whenever, in his judgment, its condition and management is such as to render an examination of its affairs necessary and expedient.

The superintendent and every such examiner shall have power to administer an oath to any person whose testimony may be required on any such examination, and to compel the appearance and attendance of any such person for the purpose of any such examination.

If the examination shall be made by the superintendent, or by one or more of the regular clerks in the department, no charge shall be made except for necessary traveling and other actual expenses.

The result of such examination of a savings bank shall be certified by the examiners, or one of them, upon the records of the corporation examined.

**§ 9. Examination of securities deposited.**—The president or cashier of every such corporation, and every individual banker, shall once or more during each fiscal year, and at such time or times during ordinary business hours as he may select, examine and compare all securities deposited by such corporation or banker in the office of the superintendent with the books of the department, and, if found correct, execute to the superintendent a receipt stating the different



kinds of such securities and the amounts thereof, and that they are in the custody and possession of the superintendent at the date of the receipt. Any individual banker unable to make such examination in person may, by written appointment, authorize an agent to make the same in his behalf, whose receipt shall have the same force and effect as if executed by the banker in person.

If any such corporation or individual banker shall refuse or neglect to make such examination during any fiscal year, the comptroller, secretary of state and superintendent shall appoint some suitable and discreet person as agent for such corporation or individual banker, who shall make such examination, and if the securities so held by the superintendent shall be found to agree with the books of the department, such agent shall execute the receipt before mentioned, and it shall be of like force and effect as if executed by the president or cashier of any such corporation, or by any such individual banker, or by an agent appointed by him. Such corporation or individual banker shall pay on demand to the person so appointed and making such examination and executing such receipt, such compensation for his services and expenses in making such examination as the superintendent shall certify to be just and reasonable.

§ 10. **Unclaimed balances.**—The superintendent shall pay into the treasury of the state all balances of money remaining in his hands unclaimed for six years from the date of the deposit with him, to be applied to the current expenses of the banking department, except the moneys required by this chapter to be kept on deposit with him and the moneys deposited with him by receivers of insolvent savings banks.

§ 11. **Examiners.**—Every examiner appointed by the superintendent shall, before entering upon the duties of his appointment, take and file in the office of the clerk of the county where he resides, the constitutional oath of office; and he shall forthwith examine fully into the books, papers and affairs of the corporation or individual banker specified in his appointment, and report on oath to the superintendent the result of such examination. No such examiner shall be appointed receiver of any corporation or individual banker whose books, papers and affairs he shall have examined pursuant to such appointment.

§ 12. **Examination and certificate as to payment of capital.**—When any such corporation or individual banker shall have filed with the superintendent the requisite certificate prior to commenc-



ing business under the laws of this state, and shall have made the deposit, if any, required by law, the superintendent shall, before such corporation or individual banker shall be authorized to commence business, examine or cause an examination to be made in order to ascertain whether the requisite capital of such corporation or banker has been paid in, in cash. The superintendent shall not authorize such corporation or individual banker to commence business unless it appears to his satisfaction from such examination or other evidence satisfactory to him that the requisite capital has been in good faith subscribed and paid in cash.

**§ 13. Affidavit to be made before commencing business.—**No such corporation shall commence its corporate business until its president and cashier or treasurer or secretary, or its two principal officers, by whatever name known, shall have made and subscribed an affidavit stating that the whole of its capital stock, or such portion thereof as by law shall be required to be paid or secured before the commencement of its operations, has been actually paid or secured to be paid, according to law. Such affidavit may be made before any officer authorized to administer oaths in the county where the corporation has its principal place of business, and shall be filed in the clerk's office of such county. Every such corporation shall cease to be a corporation if the affidavit above required shall not be made and filed within one year from the time its charter shall be granted.

**§ 14. Deposit of bonds or mortgages with superintendent.—**Every such corporation, except banks, savings banks and domestic corporations specified in articles five, six and seven of this chapter, engaged in receiving deposits of money in trust in this state, and required to make a report of its affairs to the superintendent of banks, shall, if it has not already done so, within six months from the passage of this chapter; and every such corporation hereafter proposing to engage in such business in this state shall, before engaging in such business, transfer and assign to the superintendent registered public stocks or bonds of the United States, or of this state, or of any city, county, town, village or free school district in this state, authorized by the legislature to be issued, to the amount in value, and to be at all times so maintained by the corporation, of ten per cent on its paid up capital stock, but not less in any case than one hundred thousand dollars in cities the population of which exceeds five hundred thousand inhabitants and not less than fifty thousand dollars in cities containing more than one hundred thou-

general circulation published in the place or county where such corporation is located; but such stock shall not be sold for a smaller sum than the valuation put on it by the superintendent in his determination and certificate; and the necessary costs of the sale shall be paid out of the avails of the stock sold.

If any such corporation or individual banker shall neglect for sixty days after the superintendent shall have required such deficiency to be made good, to comply with such request, the superintendent shall report the fact to the attorney-general, who shall institute such action or proceeding against such corporation or individual banker as is now authorized in the case of insolvent corporations.

If, from any such examination or report, the superintendent shall have reason to conclude that any such bank or individual banker is in an unsound or unsafe condition to do banking business, he may forthwith take possession of such bank or individual banker's property and business, and retain such possession until the termination of the action or proceeding instituted by the attorney-general.

**§ 18. Proceedings against delinquent corporations.**—If any such corporation or individual banker shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to submit to be examined upon oath touching the concerns of such corporation or individual banker, or if it shall be found to have violated its charter, or any law of the state binding upon it, the superintendent may report the fact to the attorney-general, who shall institute such action or proceeding against such corporation or individual banker as is authorized in case of insolvent corporations.

If it shall appear to the superintendent that any such corporation or banker has violated its charter or any law of this state, or is conducting business in an unsafe or unauthorized manner, he shall, by an order under his hand and official seal, addressed to such corporation or banker, direct a discontinuance of such illegal or unsafe practices, and conformity with the requirements of its charter, and with safety and security in its transactions; and whenever it shall appear to the superintendent that it is unsafe and inexpedient for such corporation or banker to continue business, he shall communicate the facts to the attorney-general, who shall thereupon institute such proceedings against the corporation or banker as are authorized in the case of insolvent corporations, or such other proceedings as the nature of the case may require.

**§ 19. Examination by order of court.**—The creditors and shareholders of any such corporation whose debts or shares shall amount

to one thousand dollars may make application to the supreme court by a verified petition setting forth facts showing that an examination of the affairs of the corporation should be made, and the court may thereupon, in its discretion, order such an examination to be made by a referee for the purpose of ascertaining the safety of the investments and the prudence of the management of the corporation. The result of every such examination, together with the opinion of the referee thereon, shall be published in such manner as the court shall direct. The court shall make such order in respect to the expenses of the examination and publication as it may deem proper.

§ 20. **Reports.**—Every corporation and individual banker subject to the provisions of this chapter shall make a written report to the superintendent of banks, in such form and containing such matters as he shall prescribe. In the case of a bank or individual banker, the superintendent shall, at least once in every three months, designate some day therein in respect to which the report shall be made. If a savings bank, trust company or safe deposit company, such report shall be made semi-annually on or before the twentieth day of January and July in each year, and shall contain a statement of its condition on the mornings of the first days of January and July preceding. If a savings bank, such report shall state the amount loaned upon bond and mortgage, together with a list of such bonds and mortgages and the location of the mortgaged premises, as have not been previously reported, and also a list of such previously reported as have since been paid wholly or in part, or have been foreclosed, and the amount of such payments respectively; the cost, par value and estimated market value of all stock investments, designating each particular kind of stock; the amount loaned upon the pledge of securities with a statement of the securities held as collateral for such loans; the amount invested in real estate, giving the cost of the same, the amount of cash on hand, and on deposit in banks or trust companies, and the amount deposited in each; and such other information as the superintendent may require.

Such report shall also state all the liabilities of such savings corporation on the morning of the said first day of January and July; the amount due to depositors, which shall include any dividend to be credited to them for the six months ending on that day, and any other debts or claims against such corporation which are or may be a charge upon its assets. Such report shall also state the amount deposited during the year previous, and the amount withdrawn dur-

general circulation published in the place or county where such corporation is located; but such stock shall not be sold for a smaller sum than the valuation put on it by the superintendent in his determination and certificate; and the necessary costs of the sale shall be paid out of the avails of the stock sold.

If any such corporation or individual banker shall neglect for sixty days after the superintendent shall have required such deficiency to be made good, to comply with such request, the superintendent shall report the fact to the attorney-general, who shall institute such action or proceeding against such corporation or individual banker as is now authorized in the case of insolvent corporations.

If, from any such examination or report, the superintendent shall have reason to conclude that any such bank or individual banker is in an unsound or unsafe condition to do banking business, he may forthwith take possession of such bank or individual banker's property and business, and retain such possession until the termination of the action or proceeding instituted by the attorney-general.

**§ 18. Proceedings against delinquent corporations.**—If any such corporation or individual banker shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to submit to be examined upon oath touching the concerns of such corporation or individual banker, or if it shall be found to have violated its charter, or any law of the state binding upon it, the superintendent may report the fact to the attorney-general, who shall institute such action or proceeding against such corporation or individual banker as is authorized in case of insolvent corporations.

If it shall appear to the superintendent that any such corporation or banker has violated its charter or any law of this state, or is conducting business in an unsafe or unauthorized manner, he shall, by an order under his hand and official seal, addressed to such corporation or banker, direct a discontinuance of such illegal or unsafe practices, and conformity with the requirements of its charter, and with safety and security in its transactions; and whenever it shall appear to the superintendent that it is unsafe and inexpedient for such corporation or banker to continue business, he shall communicate the facts to the attorney-general, who shall thereupon institute such proceedings against the corporation or banker as are authorized in the case of insolvent corporations, or such other proceedings as the nature of the case may require.

**§ 19. Examination by order of court.**—The creditors and shareholders of any such corporation whose debts or shares shall amount

to one thousand dollars may make application to the supreme court by a verified petition setting forth facts showing that an examination of the affairs of the corporation should be made, and the court may thereupon, in its discretion, order such an examination to be made by a referee for the purpose of ascertaining the safety of the investments and the prudence of the management of the corporation. The result of every such examination, together with the opinion of the referee thereon, shall be published in such manner as the court shall direct. The court shall make such order in respect to the expenses of the examination and publication as it may deem proper.

§ 20. **Reports.**—Every corporation and individual banker subject to the provisions of this chapter shall make a written report to the superintendent of banks, in such form and containing such matters as he shall prescribe. In the case of a bank or individual banker, the superintendent shall, at least once in every three months, designate some day therein in respect to which the report shall be made. If a savings bank, trust company or safe deposit company, such report shall be made semi-annually on or before the twentieth day of January and July in each year, and shall contain a statement of its condition on the mornings of the first days of January and July preceding. If a savings bank, such report shall state the amount loaned upon bond and mortgage, together with a list of such bonds and mortgages and the location of the mortgaged premises, as have not been previously reported, and also a list of such previously reported as have since been paid wholly or in part, or have been foreclosed, and the amount of such payments respectively; the cost, par value and estimated market value of all stock investments, designating each particular kind of stock; the amount loaned upon the pledge of securities with a statement of the securities held as collateral for such loans; the amount invested in real estate, giving the cost of the same, the amount of cash on hand, and on deposit in banks or trust companies, and the amount deposited in each; and such other information as the superintendent may require.

Such report shall also state all the liabilities of such savings corporation on the morning of the said first day of January and July; the amount due to depositors, which shall include any dividend to be credited to them for the six months ending on that day, and any other debts or claims against such corporation which are or may be a charge upon its assets. Such report shall also state the amount deposited during the year previous, and the amount withdrawn dur-

ing the same period ; the whole amount of interest or profits received or earned and the amount of dividends credited to depositors, together with the amount of each semi-annual credit of interest, and the amount of interest that may have been credited at other than semi-annual periods, the number of accounts opened\* or reopened, the number closed during the year, and the number of open accounts at the end of the year, and such other information as may be required by the superintendent.

If a trust company or safe deposit company, such report shall contain such particulars as the superintendent may prescribe.

If a co-operative loan association, or a building and mutual loan corporation, or a mortgage, loan or investment corporation, such report shall be made annually on or before February first in each year, and shall contain a statement of its condition on the first day of January preceding. The superintendent may, for good cause shown, extend the time for making any such report not exceeding thirty days.

Every such report shall be verified by the oath of the president and cashier or treasurer of such corporation or by such individual banker, to the effect that the same is true and correct in all respects, and that the usual business of such corporation or banker has been transacted at the location required by this chapter, and not elsewhere.

The superintendent shall serve a notice designating the day in each quarter when a report shall be made upon each bank and individual banker required to report to him by delivering the same to some officer or clerk thereof at their respective places of business or by depositing the same in the post-office inclosed in a post-paid wrapper and properly directed to each of them, or some officer thereof, at their places of business respectively.

§ 21. Penalties for failure to report.—If any bank or individual banker shall fail to make such report within ten days from the day designated for the making thereof, or to include therein any matter required by the superintendent, or if any savings bank or trust company shall fail to make such report within the time required by this chapter, or to include therein any matter required by the superintendent; every such delinquent bank, banker, savings bank or trust company shall forfeit to the people of the state the sum of one hundred dollars for every day that such report shall be delayed or withheld, and for every day that it shall fail to report any such omitted matter. Every other corporation subject to the provisions of this chapter which shall fail to make such report

\* So in the original.



within the time herein required, or to include therein any matter required by the superintendent to be stated, shall forfeit to the people the sum of ten dollars for every day for which such report shall be delayed or withheld, and for every day that any such omitted matter may remain unreported.

The moneys forfeited by this section, when recovered, shall be paid into the state treasury to be used to defray the miscellaneous expenses of the department.

If any corporation or individual banker shall fail to make two successive reports as herein required, every such corporation shall forfeit its charter, and every such individual banker shall forfeit his privileges as such banker; and every such corporation or individual banker may be proceeded against and the affairs of such corporation closed, and such individual banker be restrained from continuance in business, in the same manner as an insolvent corporation or individual banker may be proceeded against.

In case of the failure of any corporation or individual banker to make any report required of him by law, the superintendent shall immediately cause the books, papers and affairs of such corporation or banker to be examined as directed by section eight of this chapter.

§ 22. Publication of reports.—Within thirty days after any such report shall be made, the superintendent shall, with the exception of the reports made by savings banks, publish a summary statement thereof in a paper at Albany in which notices by state officers are required by law to be published, and the separate report of each corporation and individual banker shall be published by such corporation or individual banker in at least one newspaper of the place where its principal place of business is located, if there be one; if not then in the newspaper published nearest where the bank is located. Such summary statement shall contain the items of capital, circulation, if any, and deposits, specie, and cash items, public securities and private securities and such other matters as may be necessary to inform the public as to the financial condition and solvency of any such corporation or banker, or which the superintendent may deem proper to include therein. In the publication of such statements, the superintendent shall arrange the individual bankers in a separate class, and specify the name and place of business of each, and the names and residences of the general partners.

§ 23. Annual report of superintendent.—The superintendent shall report annually to the legislature, at the commencement of its first session:

1. A summary of the state and condition of every corporation



and individual banker required to report to him and from which reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of capital returned by them, the whole amount of their debts and liabilities, specifying particularly the amount of circulating notes outstanding, if any, and the total amount of means and resources, specifying the amount of specie held by them at the times of their several returns, and such other information in relation to such corporations and bankers as, in his judgment, may be useful. Such corporations shall be divided into classes so as to correspond with the designations thereof in section two of this chapter.

2. A statement of all banks and individual bankers and other corporations and individuals authorized by him to do business during the previous year, with their names and locations and dates of incorporation, and particularly designating such as have commenced business during the year.

3. A statement of the banks and individual bankers whose business has been closed during the year, with the amount of their circulation redeemed and the rate per cent of such redemption, and the amount outstanding.

4. Any amendments to the banking law, which, in his judgment, may be desirable.

5. The names and compensation of the clerks employed by him, and the whole amount of the expenses of the department during the year, and the amount, if any, for which the treasury shall be in advance.

Such report shall be made by or before the last day of the year, and the usual number of copies for the use of the legislature shall be printed and in readiness for distribution by the printer employed to print legislative documents, and one thousand copies shall be printed for the use of the department, the expense of which shall be charged among the general expenses of the department.

Such report may be divided into parts, and the part or parts containing the reports of corporations other than banks may be made on or before the first day of March in each year.

§ 24. Reports presumptive evidence. Every official report made by the superintendent to the attorney-general, and every report duly verified of any examination made, shall be presumptive evidence of the facts therein stated in all motions in any action or proceeding for the appointment of a temporary receiver of any corporation to which such report relates.

§ 25. **Restrictions.**—No corporation or banker to which this chapter is applicable shall :

1. Make any loan or discount to any person, company, corporation or firm, or upon paper upon which any such person, company, corporation or firm may be liable to an amount exceeding the one-fifth part of its capital stock actually paid in and surplus ; but the discount of bills of exchange drawn in good faith against actually existing values, or of commercial or business paper actually owned by the person negotiating the same shall not be considered as a part of any such loan or discount.

2. No such corporation nor any of its directors, officers, agents or servants, shall directly or indirectly purchase or be interested in the purchase of any promissory note or other evidence of debt issued by it for a less sum than shall appear on the face thereof to be due. Every person violating the provisions of this subdivision shall forfeit to the people of the state three times the nominal amount of the note or other evidence of debt so purchased.

3. No president, director, cashier, clerk or agent of any such corporation, and no person in any way interested or concerned in the management of its affairs, shall as individuals discount, or directly or indirectly make any loan, upon any note or other evidence of debt, which he shall know to have been offered for discount to such corporation, and to have been refused. Every person violating the provisions of this subdivision, shall, for each offense, forfeit to the people of the state twice the amount of the loan which he shall have made.

§ 26. **Calculation of profits.**—Interest unpaid, although due or accrued on debts owing to the corporation or banker, shall not be included in the calculation of its profits previous to a dividend.

The surplus profits, from which alone a dividend can be made, shall be ascertained by charging in the account of profit and loss and deducting from the actual profits :

1. All expenses paid or incurred, both ordinary and extraordinary, attending the management of its affairs and transaction of its business.

2. The interest paid, or then due and accrued, on debts owing by it.

3. All losses sustained by it. In the computation of such losses, all debts owing to it, shall be included which shall have remained due, without prosecution, and upon which no interest shall have been paid for more than one year, or on which judgment shall have

been recovered that shall have remained for more than two years unsatisfied, and on which no interest shall have been paid during that period.

§ 27. **Losses in excess of profits.**—All losses sustained by any corporation or banker subject to this chapter, in excess of its undivided profits then realized and possessed, shall be charged as a reduction of its capital stock, and no dividend shall thereafter be made on its shares of stock until the deficit of capital so created shall be made good, either by the recovery of the moneys charged as lost or from the subsequently accruing profits of the corporation.

§ 28. **Publication of unclaimed dividends and deposits.**—Every bank and individual banker doing business under any law of the state shall annually, on or before September first, cause to be published for six successive weeks in one newspaper of the county in which such bank or individual banker is located, and in a paper at Albany in which notices by state officers are required by law to be published, a true and accurate statement, verified by the oath of the cashier, treasurer or president, of all deposits made with such bank or individual banker, and of all dividends and interest declared upon any of the stock, bonds or other evidences of indebtedness of such bank or banker, which at the date of such statement shall amount to fifty dollars or over and have remained unclaimed by any person or persons authorized to receive the same for five years then next preceding. The expenses of such advertising shall be deducted from the sums unclaimed in proportion to the amount of each respectively. Such statement shall set forth the date of the deposit, its amount, the name and residence, if known, of the person making it, the name of the person in whose favor and the time when the dividend may have been declared, or interest accrued, its amount, and upon what number of shares, and on what amount of stock, bonds or other evidences of indebtedness, of any such bank or banker, it was declared or accrued.

Every savings bank or institution for savings now existing or which hereafter may be organized under and by virtue of any law of this state, shall on or before the first day of June in each year, make a report in writing to the superintendent of the banking department, verified by the oath of the two principal officers of the institution, concerning such accounts of depositors of amounts of five dollars or more, as have been dormant for twenty-two years and upwards, from the first day of May preceding; that is, accounts which have not been increased nor diminished by deposits or withdrawals, exclusive of interest credits. The accounts of depositors whose pass-

books have been presented at the bank for the entry of interest earned, within the period of twenty-two years, shall not be deemed dormant accounts within the meaning of this act.

The first report of each savings bank, made in compliance with the provisions of this section, shall accurately state the full names of all depositors which the books of the bank show to have five dollars or more to their credit, whose accounts have been dormant for twenty-two years or upwards; such report shall also state the date on which the original deposit was made, the last known place of residence of the depositor, his or her occupation, date of birth, nationality, parents' name if known, and the date when the bank discontinued the crediting of interest on each account, together with any additional data which may aid in determining the ownership of such dormant account. All subsequent reports in addition to dormant accounts not previously reported, shall contain a list of such previously reported accounts as have either been paid, or become active accounts since the last report, through partial payments, or the presentation of pass-books for the entry of the interest due to the account. It is expressly provided, however, that the sums to the credit of such dormant accounts are not required to be stated in the reports provided for by this section.

Any corporation or banker failing to make any report or statement required by this section shall forfeit to the people of the state the sum of one hundred dollars per day for every day such report or statement shall be so delayed or withheld, which, when collected, shall be paid into the treasury of the state and applied to the expenses of the banking department; but the superintendent may, for sufficient cause, extend the time for making such report or statement not exceeding thirty days.

The superintendent shall keep in his office an index of the names of the persons appearing from such reports or statements to be entitled to any such dividends, interest or deposit, and whenever any inquiry shall be made to him concerning the same, he may require the applicant to furnish evidence of his right thereto; and if satisfied that such applicant or his principal has a lawful claim to any part of such dividends, interest or deposits, he shall indicate to the person making such application by which of the savings banks such dividends interests or deposits are held.

§ 29. Change of location.—Any corporation or banker to which this chapter is applicable may make application to the superintendent of banks for leave to change its place of business to another

place in the same or an adjoining county. Notice of intention to make such application, signed by the two principal officers of the corporation or individual banker, shall be published once a week for four weeks in a newspaper published in the city of Albany and in a newspaper published in the county in which such place of business is located, to be designated by the superintendent of banks. The application shall state the reasons for such proposed change, and be signed by a majority of the board of directors of the corporation and be accompanied by the written assent thereto of at least two-thirds in amount of the stockholders of the corporation or by the banker.

If the superintendent shall be satisfied that there is no reasonable objection to such change of location, he shall make a certificate authorizing such change, which shall be filed in the office of the superintendent, and a certified copy thereof with the clerk of the county in which the place of business of the corporation or banker is located, and with the clerk of the county to which its place of business is changed, if in another county, and published once in each week for four successive weeks in the newspapers in which the notice of application was published.

When the requirements of this section shall have been fully complied with, the corporation or banker may, upon or after the day specified in the certificate, remove its property and effects to the location designated in the certificate; and thereafter its sole business location shall be the location so specified; and it shall have all the rights and powers in such new location to which it was entitled at its former location; but no such change of location shall in any manner lessen or impair any liability of the corporation or banker incurred or existing at the time such change was made.

§ 30. **Approval and certificate of superintendent upon incorporation.**—No corporation to which this charter\* is applicable shall be incorporated hereunder, or transact any business in this state other than such as relates to its formation, without the written approval of the superintendent of banks and without his written certificate stating that it has complied with the provisions of this chapter and with all the requirements of law, and that it is authorized to transact within this state the business specified therein, and that such business can be safely intrusted to it; which certificate shall be recorded in the office of the superintendent in a book to be kept by him for that purpose and a certified copy thereof filed in the office of the clerk of the county where the corporation is to have its principal business office.

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\* So in the original.

§ 31. **Permission and certificate of superintendent in case of foreign corporations.**—No foreign corporation incorporated for the purpose of carrying on the business specified in articles five, six and seven of this chapter shall transact business in this state without the written permission of the superintendent of banks and a written certificate from him stating that such corporation has complied with all of the provisions of this chapter applicable to it and with all the requirements of law, and that it is authorized to transact the business within this state specified therein and that such business may be safely intrusted to it. Such permission and certificate shall continue in force only for the period of one year from the date thereof, but may be renewed by the superintendent from time to time for a like period if satisfied that the corporation has complied with all of the provisions of this chapter and with the requirements of law and that such business can be safely intrusted to it.

§ 32. **Appointment of superintendent as attorney for service of process.**—No foreign corporation, company or association, to which this chapter is applicable, shall transact any business in this state until it has executed and filed with the superintendent of banks a written instrument appointing such superintendent its true and lawful attorney, upon whom all process in any action or proceeding by any resident of the state against it may be served with the same effect as if it existed in this state and had been lawfully served with process therein. Service in favor of a resident of this state upon such attorney shall be deemed a personal service upon such corporation, company or association. The superintendent of banks shall forthwith forward a copy of every process served upon him under the provisions of this section by mail, prepared and directed to the secretary of such corporation, company or association at its last known post-office address. For each copy of process the superintendent shall collect the sum of two dollars which shall be paid by the plaintiff or moving party at the time of such service to be recovered by him as a part of his taxable disbursements if he succeeds in the suit or proceeding. The term process in this section includes any writ, summons, petition or order whereby any suit, action or proceeding shall be commenced by a resident of the state.

§ 33. **Appointment of receiver.**—If it is made to appear upon application of any creditor or shareholder in any such corporation, company or association, residing in this state that the funds on deposit with the superintendent of banks are insufficient to pay in full the creditors and shareholders residing in this state, or that it is insolvent, or has suspended business, or that insolvency or bankruptcy



proceedings have been taken against it either voluntarily or involuntarily, the supreme court may, upon due notice to the attorney-general, and upon such notice to the corporation, company or association as the court shall prescribe, appoint a receiver of such funds; and pending such application, the court or any judge thereof may enjoin the commencement or prosecution of any other action or proceeding against such corporation, company or association. Upon the qualification of such receiver, the superintendent of banks shall pay over to him the funds remaining in his hands less any charges which he may have against the same, and the receiver shall distribute such funds among the creditors and shareholders of the corporation, company or association residing in this state in the manner prescribed by law for the payment of creditors in the case of voluntary dissolution of a corporation.

## ARTICLE II.

### BANKS.

#### SECTION 40. Incorporation.

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**§ 40. Incorporation.**—Five or more persons may become a bank by making, acknowledging and filing in the office of the clerk of the county where such bank is to be established and in the office of the superintendent of banks, a certificate in duplicate, which shall state :

1. The name by which such bank is to be known.
2. The particular city, town or village where its operations of discount and deposit are to be carried on.
3. The amount of its capital stock, which shall not be less than fifty thousand dollars in any city, village or town whose population does not exceed thirty thousand, and not less than one hundred thousand dollars elsewhere ; and the number of shares into which such capital stock shall be divided.
4. The names and places of residence of the stockholders and the number of shares held by each.
5. The dates at which such corporation shall commence and terminate.
6. The number of directors of the bank, which shall not be less than five, and the names of the stockholders who shall be directors for the first year of its incorporation.

Every such certificate when filed shall be recorded by the county clerk in the book kept for the record of certificates of incorporation, and by the superintendent of banks in a book to be kept by him for that purpose.

Such certificate may provide for an increase of the capital stock and of the number of persons forming the corporation from time to time as the stockholders may deem proper, and for the manner in which the stock of the corporation may be transferred, and for the number of directors necessary to constitute a quorum, and for the time when the annual election of directors shall be held.

§ 41. **Amended certificate of incorporation.**—Whenever any bank shall, by virtue of the provisions of its certificate of incorporation or other lawful authority, make any change in any of the matters required to be stated in such certificate, such change shall not be of any force or validity until a certificate thereof, executed by its president and cashier under its corporate seal, shall have been filed and recorded in the same manner as the certificate of incorporation is by law required to be filed and recorded.

§ 42. **Certificate of individual banker.**—Every individual banker shall file in the office of the superintendent of banks a certificate stating the town, city or village in which he resides. No individual banker shall transact business under the provisions of this chapter in any other place than the one thus designated, except in case of a change of his residence, and a notice thereof forthwith filed in such office. Every person who neglects to comply with any requirement of this section shall, for each neglect, forfeit one thousand dollars to the people of the state. Every notice of change of residence so filed shall be published by the superintendent in the state paper, and in such other newspapers and for such period of time as he may direct, not exceeding three months, and the expense of such publication shall be paid to the superintendent by the individual banker to whom the notice relates.

§ 43. **General powers.**—In addition to the powers conferred by the general and stock corporation laws every bank shall have power:

1. To exercise by its board of directors, or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt; by receiving deposits; by buying and selling exchange, coin and bullion; by loaning money on personal security; and by obtaining, issuing and circulating notes according to the provisions of this chapter.

2. To take and become the owner of any stocks or bonds or interest-bearing obligations of the United States, or of the state of New York, or of any city, county, town or village of this state, the interest on which is not in arrears.

3. To purchase, hold and convey real property for the following purposes:

a. Such as shall be necessary for its immediate accommodation in the convenient transaction of its business.

b. Such as shall be mortgaged to it in good faith, by way of security for loans made by, or moneys due to, such corporation.

c. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

d. Such as it shall purchase at sales under judgments, decrees or mortgages held by it.

No such corporation shall purchase, hold or convey real property in any other case or for any other purpose, and all conveyances of real property shall be made to it directly and by name.

All such corporations and all individual bankers shall be banks of discount and deposit as well as of circulation, and the usual business of banking of such corporations or individual bankers shall be transacted at the place where such corporations or individual bankers shall be located, agreeably to the location specified in the certificates required by law to be made by them respectively, and filed in the office of the superintendent of banks, and not elsewhere, except as otherwise provided in this chapter in relation to the redemption of circulating notes by agents.

§ 44. **Lawful money reserve.**—Every bank or individual banker shall at all times have on hand in lawful money of the United States an amount equal to at least fifteen per cent of the aggregate amount of its deposits, if its principal place of business is located in any city of the state having a population of eight hundred thousand and over; and an amount equal to at least ten per cent of the aggregate amount of its deposits, if its principal place of business is located elsewhere in the state. The amount thus to be kept on hand shall be called its lawful money reserve.

One-half of such lawful money reserve may consist of moneys on deposit, subject to call with any bank or trust company in this state having a capital of at least two hundred thousand dollars and approved by the superintendent of banks as a depository of lawful money reserve. If the lawful money reserve of any bank or individual banker shall be less than the amount required by this section,

such bank or banker shall not increase its liabilities by making any new loans or discount otherwise than by discounting bills of exchange payable on sight, or making any dividends or profits until the full amount of its lawful money reserve has been restored. The superintendent of banks may notify any bank or individual banker whose lawful money reserve shall be below the amount herein required to make good such reserve; and if it shall fail for thirty days thereafter to make good such reserve, such bank or individual banker shall be deemed insolvent and may be proceeded against as an insolvent monied corporation.

§ 45. Consolidation of corporations.—Any two or more corporations organized as banks under the laws of this state and located in the same city, village or town, may consolidate into a single corporation to be located in the same place.

To effect such consolidation, the directors of such corporations may enter into an agreement under their respective corporate seals for the consolidation of the corporations, prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name and duration of the new corporation, the number of directors, the names of the persons to constitute the first board of directors, the time and place of holding the first election of directors, the manner of converting the shares of each of such corporations into the shares of the new corporation, with such other details and provisions as they may deem expedient not inconsistent with law.

Notice of the intention to consolidate shall be served personally or by mail on each stockholder of each corporation at least ten days previous to entering into such agreement.

The written consent of stockholders owning at least two-thirds in amount of the capital stock of each corporation shall be requisite to the validity of such agreement.

Upon the presentation to the superintendent of banks of such agreement duly proved or acknowledged, with satisfactory proof by affidavit or otherwise of the assent thereof of stockholders herein required and of the service of such notice upon each stockholder, the superintendent shall within a reasonable time thereafter make or cause to be made an examination of the books, property and liabilities of such corporations. From the result of such examination, the superintendent shall determine the value, in his judgment, of such property above and beyond such debts and liabilities, and make a certificate thereof; and the amount so determined and certified shall be the capital stock of the new corporation.

Such agreement and the certificate of the superintendent shall be filed and recorded in the offices where certificates of incorporation of such corporations are required to be filed and recorded and shall be published once a week for six weeks successively in the state paper, and in at least one newspaper in the county where such corporation shall be located.

§ 46. **When consolidation effected.**— When such agreement shall have been recorded, such consolidating corporations shall be a single corporation in accordance with such agreement and certificate, with the same franchises, rights, powers and privileges and subject to the same duties, conditions and limitations as the several constituent corporations. Such new corporation shall be vested with all the estate, property and credits of the constituent corporations without deed or other transfer, and shall be liable for all their contracts, debts, obligations and liabilities; and the separate existence and operation of such constituent corporations shall thereupon cease and determine.

§ 47. **Saving clause.**— No action or other proceeding pending before any tribunal in which either of the constituent corporations may be a party, shall abate or be discontinued by reason of such consolidation; but the same may be prosecuted to final judgment and execution in the same manner as before the consolidation, or the new corporation, by order of the court in which the action or proceeding may be pending, may be substituted as a party in place of either of the constituent corporations in any stage of such action or proceeding.

Such consolidation shall not in any way change or lessen the liability of the stockholders of the constituent corporations to the billholders or other creditors thereof; or any indebtedness or engagement now existing or that may exist either absolutely or contingently against any one of the constituent corporations prior to or at the time when such consolidation shall take place; nor shall the rights, remedies or security of the then existing creditors of any one of the constituent corporations be weakened or impaired by such consolidation.

§ 48. **Stock of dissenting stockholders to be appraised.**— Any stockholder in either of the corporations so consolidating who shall not have assented to such consolidation may, within twenty days after such agreement and certificate shall be recorded, object in writing to such consolidation and demand payment for his stock, and such new corporation shall, within three months from the filing of such dissent, pay to the dissenting stockholder the value of his stock as determined in such certificate of the superintendent of banks



and upon payment so made by the new corporation, the interest of such stockholder in the property of such corporation shall cease, and such stock may be held and disposed of by the new corporation for its own benefit.

§ 49. **Payment of capital stock.**—At least fifty per cent of the capital stock of every bank shall be paid in before it shall commence business, and the remainder of its capital stock shall be paid in installments of at least ten per cent each on the whole amount of the capital, as frequently as one installment at the end of each succeeding month from the time it shall be authorized by the superintendent of banks to commence business and the payment of each installment shall be certified to the superintendent under oath by the president or cashier of the corporation.

§ 50. **Directors.**—No person shall be eligible to election as director of a bank having a capital of fifty thousand dollars or over unless he is a stockholder of the corporation owning in his own right an amount equal to at least one thousand dollars in value, nor of a bank having a capital of less than fifty thousand dollars, unless he is a stockholder in his own right to an amount equal to at least five hundred dollars; and every person elected to be a director, who after such election shall cease to be the owner in his own right of the amount of stock aforesaid, shall cease to be a director of the corporation, and his office shall be vacant. The directors shall hold office for one year and until their successors are elected and have qualified. Each director must be a citizen of the United States, and at least three-fourths of the directors must be residents of this state at the time of their election and during their continuance in office. All vacancies in the office of directors shall be filled by election by the stockholders; but vacancies not exceeding one-third of the whole number of the board may be filled\* by the directors then in office, and the directors so elected may hold their offices until filled by the stockholders at a special or annual meeting. One of the directors to be chosen by the board, shall be the president of the board; and if the certificate of incorporation or the by-laws do not prescribe the number of directors necessary to constitute a quorum, and makes no provision for determining the same, the directors may fix the number necessary to constitute a quorum for the transaction of business, which shall not be less than five, with the same effect as if such number was prescribed in the certificate of incorporation.

§ 51. **Oath of directors.**—Each director, when appointed or elected, shall take an oath that he will, so far as the duty devolves on

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\* So in the original.

him, diligently and honestly administer the affairs of such corporation, and will not knowingly violate, or willingly permit to be violated, any of the provisions of law applicable to such corporation, and that he is the owner in good faith and in his own right, of the number of shares of stock required by this chapter, subscribed by him or standing in his name on the books of the corporation, and that the same is not hypothecated, or in any way pledged as security for any loan or debt. Such oath shall be subscribed by the director making it, and certified by the officer before whom it is taken, and shall be immediately transmitted to the superintendent of banks, and filed and preserved in his office.

**§ 52. Individual liability of stockholders.**—Except as prescribed in the stock corporation law, the stockholders of every such corporation shall be individually responsible, equally and ratably, and not one for another, for all contracts, debts and engagements of such corporation to the extent of the amount of their stock therein at the par value thereof, in addition to the amount invested in such shares.

The term, stockholder, when used in this chapter, shall apply not only to such persons as appear by the books of the corporation to be stockholders, but also to every owner of stock, legal or equitable, although the same may be on such books in the name of another person, but not to a person who may hold the stock as collateral security for the payment of a debt.

**§ 53. Limitation of liability of stockholders.**—No person who has in good faith, and without any intent to evade his liability as a stockholder, transferred his stock on the books of the corporation when solvent to any resident of this state of full age previous to any default in the payment of any debt or liability of the corporation, shall be subject to any personal liability on account of the non-payment of such debt or liability of the corporation, but the transferee of any stock so transferred previous to such default shall be liable for any such debt or liability of the corporation to the extent of such stock in the same manner as if he had been the owner at the time the corporation contracted such debt or liability.

**§ 54. Powers of president and vice-president.**—All contracts made by any such corporation, and all notes and bills by it issued and put in circulation as money, shall be signed by the president or vice-president and cashier thereof.

**§ 55. Rate of interest.**—Every bank and individual banker doing business in this state may take, receive, reserve and charge on

every loan or discount made, or upon any note, bill of exchange or other evidence of debt, interest at the rate of six per cent per annum; and such interest may be taken in advance, reckoning the days for which the note, bill or evidence of debt has to run.

The knowingly taking, receiving, reserving or charging a greater rate of interest shall be held and adjudged a forfeiture of the entire interest which the note, bill or other evidence of debt carries with it, or which has been agreed to be paid thereon. If a greater rate of interest has been paid, the person paying the same or his legal representatives may recover back twice the amount of the interest thus paid from the bank or individual banker taking or receiving the same, if such action is brought within two years from the time the excess of interest is taken. The purchase, discount or sale of a bona fide bill of exchange, note or other evidence of debt payable at another place than the place of such purchase, discount or sale at not more than the current rate of exchange for sight drafts, or a reasonable charge for the collection of the same, in addition to the interest, shall not be considered as taking or receiving a greater rate of interest than six per cent per annum.

The true intent and meaning of this section is to place and continue banks and individual bankers on an equality in the particulars herein referred to with the national banks organized under the act of congress entitled "An act to provide a national currency, secured by pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864.

**§ 56. Rate of interest on loans on warehouse receipts.**—Upon advances of money repayable on demand to an amount not less than five thousand dollars made upon warehouse receipts, bills of lading, certificates of stock, certificates of deposit, bills of exchange, bonds or other negotiable instruments, pledged as collateral security for such repayment, any bank or individual banker may receive or contract to receive and collect as compensation for making such advances any sum to be agreed upon in writing by the parties to such transaction.

**§ 57. Deposit of banks and individual bankers with superintendent.**—Every bank and individual banker heretofore or hereafter authorized to do business, not having given notice of intention to close the business of banking, shall, before commencing or continuing such business, have and keep on deposit in the banking department in addition to the deposit required to secure circulating notes, stocks of this state or of the United States bearing interest, to

the amount of one thousand dollars, which shall be held by the superintendent of banks as a pledge of good faith, and guaranty of compliance with the banking laws of the state on the part of such bank or individual banker. The proceeds of such stock or the interest thereon, or so much thereof as may be necessary, may be applied by the superintendent to the payment of any penalty incurred by, or the assessment imposed upon, the bank or individual banker, for whom such deposit is held. The superintendent may, in his discretion, maintain an action in his name of office against any bank or individual banker for the recovery of any penalty incurred by, or lawful assessment imposed upon such bank or individual banker.

Whenever any bank or individual banker is required by law to make a deposit of securities with the superintendent of banks in trust for such bank or individual banker, such deposit shall consist of interest bearing stock of the state of New York or of the United States.

§ 58. **Prohibition against sale of business by individual banker.**—No individual banker having circulating notes obtained under the laws of this state, shall sell or transfer the business of banking, upon the securities deposited by him, to any person or persons; and until such business shall be closed, by the return of the circulating notes issued, and the delivery of the securities deposited, the same shall be conducted only in the name of the individual banker by whom the securities were deposited; and he shall continue individually liable for the payment of all circulating notes delivered to him. But any such individual banker may bequeath his business of banking upon the securities deposited by him to any person or persons, and such business may be continued after his death by his legatee or heir at law.

§ 59. **Change from state to national bank.**—Any bank may become a corporation for the purpose of carrying on the business of banking within this state pursuant to the provisions of the act of congress “to provide a national currency secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof,” approved June 3, 1864, and of title fifty-two of the Revised Statutes of the United States, whenever stockholders owning two-thirds of the stock of such bank shall have voted to become such corporation, or have executed a written consent authorizing its directors to make the certificate required therefor by the laws of the United States, or whenever a majority of the directors of such bank

having been authorized in their discretion to make the change, shall, by a vote of such majority, decide to become such corporation; and the cashier of such bank shall publish notice thereof for thirty days in such newspaper as the directors may select, and send a like printed notice by mail or otherwise to all non-voting or dissenting stockholders, and notify the superintendent of banks of this state that such bank has decided to become a corporation under the laws of the United States.

§ 60. **When deemed to have surrendered its charter.**— Any such bank which shall become a corporation for carrying on the business of banking under the laws of the United States shall cease to be a corporation under the laws of this state, except that for the term of three years thereafter, its corporate existence shall be deemed to continue for the purpose of prosecuting and defending suits by and against it, and of enabling it to close its concerns, and to dispose of and convey its property. The members of the board of directors last in office, when such corporation shall have become a corporation under the laws of the United States, shall continue to be the board of directors of the new corporation, with power to take all necessary measures to carry out and perfect such organization by signing the articles of association and the organization certificate, and adopting such regulations as may be just and proper and not inconsistent with the acts of congress in relation thereto.

Such change from a state to a national bank corporation shall not release any such bank from its obligations to pay and discharge all the liabilities created by law or incurred by it before becoming a national bank corporation, or any tax imposed by the laws of this state up to the date of its becoming such national bank corporation, in proportion to the time which has elapsed since the next preceding payment therefor.

§ 61. **Reduction of capital stock in such cases.**— The directors of such new corporation may reduce the capital stock of the bank to its par value by dividing the surplus among its stockholders, or may retain such portion of such surplus as they may deem necessary; and in case of an increase of the capital stock under the provisions of the acts of congress, may charge the shares of such increased capital stock with a like amount, to place the whole of such capital stock on an equality; and may award such new stock, or such proportion or fractional parts thereof, to such persons as they shall determine are entitled thereto, and as are provided in their

articles of association and in the acts of congress; but new directors may be chosen at such time and in the manner provided in the articles of association and the acts of congress.

§ 62. **Certificate of change.**—When any such bank has decided to become a corporation under the laws of the United States, the directors shall immediately thereafter execute and transmit to the comptroller of the currency the proper certificate and other instruments for its conversion into a national bank corporation under the laws of the United States. When any such bank shall have become authorized to commence the business of banking under the laws of the United States, all the property of such bank shall immediately, by act of law, and without any conveyance or transfer, be vested in and become the property of the national bank corporation, into which such bank shall have been converted; and it shall be entitled, on returning the bills of such bank to the banking department of this state, to receive the stocks pledged to secure the redemption of the same, in the like manner as the bank issuing the same is now entitled by law; and shall be subjected to the same rules as state banks in respect to the final redemption of the circulating notes of such banks so converted into national bank corporations.

The plates and dies of any such bank, in the banking department of this state, shall be forthwith so obliterated as to prevent all future use of the same.

§ 63. **National bank may become a state bank.**—Whenever any banking corporation organized and doing business under the laws of the United States shall under the provisions of any act of congress, be authorized to dissolve its organization as such national bank corporation, and shall have taken the action required to effect such dissolution, a majority of the directors of such dissolved corporation may, upon the authority in writing of the owners of two-thirds of its capital stock, execute the certificate of incorporation required by section forty of this chapter.

Upon the execution and proof or acknowledgment of such certificate, which shall also set forth the authority in writing of the stockholders as required by this section, and upon filing a copy thereof in the office of the superintendent of banks, with proof that the original is duly recorded in the office of the clerk of the county where any office of such corporation shall be located, such corporation shall be held and regarded an incorporated bank under and in pursuance of the laws of this state, and shall be entitled to all the privileges and be subject to all the liabilities of banks so incorporated; and there-



upon all the property of the dissolved national bank corporation shall immediately by act of law and without any conveyance or transfer be vested in and become the property of such state bank. The directors of the dissolved corporation at the time of such dissolution, shall be the directors of the bank created in pursuance hereof until the first annual election of directors thereafter, and shall have power to take all necessary measures to perfect its organization, and to adopt such regulations concerning its business and management as may be proper and just and not inconsistent with law.

§ 64. **Circulating notes; plates.** — Any bank or individual banker may deposit with and transfer to the superintendent of banks any interest-bearing stocks or bonds of the United States or of the state of New York, or of any county or incorporated city of this state authorized to be issued by the legislature, or bonds and mortgages on improved, unincumbered real property of the state of New York worth seventy-five per cent more than the amount thereon loaned; but no such stock or bonds shall be received by the superintendent at a rate above their par value or above their current market value. The superintendent may thereupon issue to such bank circulating notes in the similitude of bank notes in blank, engraved and printed in the best manner to guard against counterfeiting, in denominations of one, two, five, ten, twenty, fifty, one hundred, five hundred and one thousand dollars, which shall be countersigned, numbered and registered in proper books to be provided and kept for that purpose in the office of the superintendent, under his direction, by such person as he shall appoint for that purpose, so that each denomination of such circulating notes shall bear the uniform signature of such register, or one of such registers. Such notes shall also have stamped on their face the words "secured by the pledge of public stocks."

The aggregate amount of notes thus issued to any bank or individual banker shall not exceed ninety per cent of the market value, and in no case ninety per cent of the par value, of the stock, bonds or other securities so deposited with or transferred to the superintendent by such bank or banker. Such bank or banker, after having executed and signed such circulating notes in the manner required by law to make them obligatory promissory notes payable on demand, if of a denomination less than one thousand dollars, at the place of business within this state of such bank or banker, if of a denomination of one thousand dollars, payable at such place of business or at any redemption agency of such bank or banker, may loan and circulate the same as money according to the ordinary course of banking business

as regulated by the laws and usages of this state. The securities so deposited with and transferred to the superintendent shall be held by him as security for such circulating notes and exclusively for their redemption and until the same are paid. The plates, dies and materials procured by the superintendent for printing and making such circulating notes shall remain in his custody and under his direction.

§ 65. **Circulating notes of individual banker.**—The circulating notes delivered to an individual banker shall express only the individual liability of the banker and shall be signed by him only and not by any attorney or agent. Any banker or person acting as his attorney or agent who shall violate any provision of this section shall forfeit to the people of the state one hundred dollars for each offense, to be collected and paid into the treasury to defray the general expenses of the banking department.

The superintendent shall not issue circulating notes to any individual banker designating such individual as a bank unless as an addition to his own proper name. If such individual shall have partners in the business of banking at the time of commencing the same, such fact shall be shown by the words "and company," to be added to his own proper name, upon every note issued to him or them from the banking department.

If it shall appear, by the return of any individual banker or by the report of any person designated by the superintendent of banks that any other person is interested with such individual banker directly or indirectly in the securities deposited by him for the purpose of obtaining circulating notes, or in the business of circulating such notes, or in the benefits or advantages thereof, the superintendent shall withhold all interest and dividends on the securities deposited with him, by such banker, and all circulating notes from such banker, until he shall have filed in the banking department a certificate, signed and acknowledged by every person so returned or reported as interested in such securities, stating that such person is interested with such individual banker in the circulating notes obtained or to be obtained by him, and in the benefits and advantages of circulating the same. Such certificate shall be evidence that the person signing and acknowledging the same is a general partner with such banker in the business of banking, and as such is liable with him individually for all the debts and obligations created or made by such individual banker in his business.

§ 66. **When bank may receive interest or dividends upon securities deposited.**—The superintendent may give to any bank

or individual banker depositing and transferring securities to him pursuant to this chapter, a power of attorney to receive the interest or dividends thereon, and such bank or banker may thereupon receive and apply such interest or dividends to its own use. Such power may be revoked if such bank or banker fails to redeem the circulating notes so issued, or if, in the opinion of the superintendent, the principal of such securities shall become an insufficient security for the redemption of the circulating notes issued; and the superintendent may in his discretion, upon the application of any such bank or banker, change or transfer any securities deposited by it or him for other securities of the kinds hereinbefore specified, or he may retransfer such securities or any part thereof to the bank or banker depositing the same upon receiving and canceling a proportional amount of the circulating notes delivered by him to such bank or banker, in such manner that the circulating notes remaining outstanding shall always be secured in full.

If the securities so deposited for the redemption of circulating notes shall, in the opinion of the superintendent, become insufficient for that purpose, he may receive the dividends on all such securities and deposit the same in some safe bank in the city of Albany in his name in trust for the bank or banker to whom the same may belong, on such terms and at such rate of interest as the superintendent may deem most conducive to the interest of any such bank or banker, and to be withdrawn and paid over whenever in the opinion of the superintendent the securities of such bank or banker shall be sufficient to warrant it.

If it shall appear from any examination made by or at the instance of the superintendent that any bank or individual banker is in an unsound or unsafe condition to do business, or that the business of banking is not prosecuted by it or him at the place where such circulating notes are dated and purport to be issued, or is not transacted in the manner prescribed by law, the superintendent shall withhold and refuse to issue and deliver any registered notes to such bank or banker, and shall retain the interest on all securities held in trust for such bank or banker until such time as he shall be satisfied that such bank or banker is in a sound or safe condition to do banking business, and that the business of banking is transacted by it or him at the place where such circulating notes are dated and purport to be issued.

§ 67. **Redemption agencies.**—Every bank or individual banker issuing circulating notes, except those whose place of business is in

the cities of New York, Albany, Brooklyn or Troy, and who have not already made such an appointment, shall forthwith appoint in writing an agent who shall keep an office in the city of New York, Albany or Troy, for the redemption of all circulating notes issued by it or him which shall be presented to such agent for payment or redemption; and such appointment shall be delivered to the superintendent forthwith and filed in his office. Any bank or individual banker or other person may be such agent. If any such bank or banker shall omit to appoint such agent forthwith, the superintendent shall appoint such agent for such bank or banker and file such appointment in his office.

The superintendent shall, immediately after such appointment and filing thereof in his office, publish during such time as he may deem proper, a list of such agents in the state paper and in at least two daily newspapers in the city of New York.

If the agent of any bank or banker shall neglect or refuse to redeem its notes on demand, such bank or banker shall pay to the person making such demand, interest on such notes at the rate of twenty per cent per annum. If such redemption and payment of interest is not made at such office within twenty days from the time when first demanded, such bank or individual banker may be proceeded against by the superintendent of banks in the same manner and with the like effect as though insolvent; and such bank or banker shall not issue or put in circulation any bills or notes; and the superintendent shall also proceed in the manner directed in section seventy-two of this chapter. Every bank and individual banker outside of the cities of New York, Albany, Brooklyn and Troy shall redeem and pay on demand all circulating notes issued by it or him presented for redemption or payment at the office of its such agent in the city of New York, Albany or Troy, at a rate of discount not exceeding one-quarter of one per cent.

§ 68. Destruction of bank notes.— When any circulating notes of any bank or individual banker shall be returned to the superintendent for destruction, the same shall be burned by or under the direction of the superintendent, and such bank or individual banker shall procure the attendance of an agent to witness the counting and destruction of such circulating notes at the department and sign a certificate thereof. If such bank or banker shall refuse or neglect to appoint or procure the attendance of such agent within ten days after the receipt of the bills at the department, the superintendent shall select and appoint some indifferent person, who shall, as the agent of such bank or individual banker, witness and certify the

counting and destruction of such notes, and such bank or individual banker shall forthwith pay on demand to the person so appointed, witnessing and certifying, such compensation therefor as the superintendent shall certify to be just and reasonable.

§ 69. **Destruction of plates and counterfeit notes.** The superintendent shall destroy, or cause to be destroyed, all bank-note plates in his custody of banks or individual bankers becoming insolvent, or which have given notice of closing their business, and any impressions made therefrom on hand. Hereafter when any bank or individual banker shall become insolvent or discontinue the business of banking, the superintendent shall destroy, or cause to be destroyed, all plates and impressions belonging to such bank or individual banker, and include in his next annual report a statement of the plates so destroyed. Every public officer into whose hands shall come any counterfeit bank-note plate or other device for counterfeiting bank notes, or any counterfeit or spurious bank notes, immediately after using them when necessary in evidence against the parties implicated, shall surrender the same to the superintendent, to be destroyed under his supervision, and he shall destroy all such plates, devices or notes thus surrendered to him in the same manner as in case of banks whose charters have expired, or which have become insolvent, and report the same to the legislature in his annual report.

§ 70. **Exchange of mutilated notes.**—The superintendent shall receive mutilated circulating notes issued by him and deliver in lieu thereof other circulating notes to the same amount.

Every person who shall mutilate, cut, deface, disfigure or perforate with holes, or shall unite or cement together, or to any other thing, any bank bill, draft, note or other evidence of debt issued by a bank, or shall cause or procure the same to be done with intent to render such bank bill, draft, note or other evidence of debt unfit to be reissued by such bank, shall forfeit fifty dollars to the corporation injured thereby

§ 71. **Redemption in notes of other banks.**—When an action shall be brought against any bank or individual banker for the recovery of the amount due on any circulating notes registered in the superintendent's office, the payment of which shall have been demanded at the banking-house or other place of business of the defendant, if it shall appear on the trial or otherwise, to the court in which such suit is brought, that at the time such demand of payment was made, the defendant offered in payment the circulating

notes issued by any other bank or banker which were at the time at par in the city of New York, Albany or Troy, or a draft on any bank or banker in either of such cities, for the amount of the circulating notes so presented, with an affidavit, if required, that such draft is available to its full amount, to insure the immediate payment thereof on presentation, or in case any action shall be commenced upon such notes before the expiration of fifteen days from the time of the first demand thereof; and if such bank or banker shall be ready and prepared to redeem such notes in the lawful money of the United States at the ordinary place of business of such bank or banker, at the expiration of fifteen days from the time of the first demand thereof, with interest, then in either case the plaintiff in such action shall not recover any costs, fees or disbursements whatever against the defendant, and shall be entitled to recover no more than six per cent interest in lieu of all damages for the non-payment of such circulating notes. No interest shall be recovered upon such notes in any action unless the plaintiff or holder thereof shall have again presented the same for payment at the ordinary place of business of the defendant on or after the fifteenth day after such first demand and before the twentieth day, and the defendant shall have neglected or refused to pay the same with interest to that time. If such bank or banker at the time of the first presentation of such notes shall have offered to pay current bank notes or drafts, or both, or either, in the manner above provided, and shall, at the time of such second presentation, pay or tender the amount of such notes in the lawful money of the United States at its ordinary place of business, then such bank or banker shall not be deemed to have suspended or refused specie payment or payment of its circulating notes, within the meaning of any statutes authorizing proceedings for the dissolution of such bank, or to restrain or enjoin such bank or banker from the transaction of its business, nor shall such bank or banker in such case be liable to any other or greater damages for the non-payment of such notes than above provided, notwithstanding any contrary provision in the charter of such bank or of any other statute.

§ 72. **Protests of notes and proceedings thereon.**—If the maker of any circulating notes countersigned and registered as herein provided, shall at any time hereafter on lawful demand during the usual hours of business, between the hours of ten and three o'clock, at the place where such notes are payable, fail or refuse to redeem such notes in the lawful money of the United States, the holder



thereof making such demand, may cause the same to be protested in one package for non-payment by a notary public under his seal of office in the usual manner, unless the president, cashier or teller of the bank shall offer to waive demand and notice of the protest, and shall, in pursuance of such offer, make, sign and deliver to the party making such demand, an admission in writing, stating the time of the demand, the amount demanded and the facts of the non-payment thereof. The superintendent on receiving and filing in his office such admission or protest, together with such notes, shall forthwith give notice in writing to the maker thereof to pay the same, and if such maker shall omit to do so for fifteen days after such notice, the superintendent shall immediately, unless satisfied that there is a good and legal defense to the payment of such notes, give notice in the state paper that all the circulating notes issued by such bank or banks will be redeemed out of the trust funds in his hands for that purpose; and the superintendent shall apply such funds to the payment pro rata of all circulating notes put in circulation by such bank or banker pursuant to the provisions of this chapter, and adopt such measures for the payment of such notes as will, in his opinion, most effectually prevent loss to the holders thereof.

If payment of such notes is not made for a period of ten days after the first publication of such notice, the superintendent shall sell at public auction the securities so pledged, or any of them, and out of the proceeds of such sale pay and cancel such notes, but the state shall not be deemed as under any pledge for the payment of such notes beyond the proper application of the proceeds of such securities for their redemption.

Damages for non-payment of any such notes in lieu of interest at the rate of six per cent per annum from the time of refusal of payment, shall be paid by the bank or banker refusing to pay such notes on demand.

This section shall not apply to cases where circulating notes registered in the superintendent's office shall be presented for payment to an agent of any incorporated bank or individual banker appointed according to the provisions of this chapter relating to the redemption of bank notes, nor to any bank or individual banker for whom there shall not be at the time an agent duly appointed as prescribed in this chapter; nor to banks or individual bankers whose place of business is in either of the cities of New York, Albany, Brooklyn or Troy.

All fees for protesting any such notes shall be paid by the person

procuring the service to be performed and the bank or banker issuing such notes shall be liable for the same, but no part of the securities deposited by such bank or banker shall be applied to the payment of such fees.

§ 73. **Appointment of agent by new corporation.**—Every bank and individual banker who shall hereafter commence business under the laws of this state shall upon first receiving circulating notes from the superintendent, appoint an agent for the purpose of redemption, and be subject in all respects to the provisions of this chapter in relation thereto; and the superintendent shall not deliver any circulating notes to such bank or banker until such appointment is made and filed in his office, which shall be immediately published by the superintendent in the manner hereinbefore provided.

§ 74. **Revocation of appointment.**—Appointments of agents for the purpose of redemption may be revoked and new appointments of agents may be made from time to time by delivering such revocation of appointment to the superintendent, who shall cause the same to be published as hereinbefore provided. Several banks may appoint a common agent. Any number of banks and individual bankers may by agreement associate for raising a joint fund to be placed in the hands of their common agent for the redemption of their circulating notes in the city of New York or Albany, and also the circulating notes of other banks and individual bankers in such manner and under such regulations as may be agreed upon, and employ such agents and clerks as they may deem necessary to carry on the business of the common agency. No such agency shall redeem or purchase any circulating notes at a discount of more than one-half of one per cent, nor relieve or discharge any such bank or banker from any duty or liability required or imposed by this chapter, nor shall any bank or individual banker purchase, buy in or take up, directly or indirectly, its or his circulating notes at an amount less than what purports to be due thereon at any other place or in any other manner than is directed in or by this chapter.

§ 75. **Distribution of funds of insolvent banks.**—The superintendent shall make a final distribution of the funds in his hands arising from the sale of securities deposited with him by banks and individual bankers, which have failed or may hereafter fail to redeem their circulating notes. At the expiration of six years after the first sale made by the superintendent of such securities, he shall issue a final notice to the holders of the circulating notes issued by such bank or banker requiring the presentation thereof within six months after the date of the notice, and any of such notes which shall

thereof making such demand, may cause the same to be protested in one package for non-payment by a notary public under his seal of office in the usual manner, unless the president, cashier or teller of the bank shall offer to waive demand and notice of the protest, and shall, in pursuance of such offer, make, sign and deliver to the party making such demand, an admission in writing, stating the time of the demand, the amount demanded and the facts of the non-payment thereof. The superintendent on receiving and filing in his office such admission or protest, together with such notes, shall forthwith give notice in writing to the maker thereof to pay the same, and if such maker shall omit to do so for fifteen days after such notice, the superintendent shall immediately, unless satisfied that there is a good and legal defense to the payment of such notes, give notice in the state paper that all the circulating notes issued by such bank or banks will be redeemed out of the trust funds in his hands for that purpose; and the superintendent shall apply such funds to the payment pro rata of all circulating notes put in circulation by such bank or banker pursuant to the provisions of this chapter, and adopt such measures for the payment of such notes as will, in his opinion, most effectually prevent loss to the holders thereof.

If payment of such notes is not made for a period of ten days after the first publication of such notice, the superintendent shall sell at public auction the securities so pledged, or any of them, and out of the proceeds of such sale pay and cancel such notes, but the state shall not be deemed as under any pledge for the payment of such notes beyond the proper application of the proceeds of such securities for their redemption.

Damages for non-payment of any such notes in lieu of interest at the rate of six per cent per annum from the time of refusal of payment, shall be paid by the bank or banker refusing to pay such notes on demand.

This section shall not apply to cases where circulating notes registered in the superintendent's office shall be presented for payment to an agent of any incorporated bank or individual banker appointed according to the provisions of this chapter relating to the redemption of bank notes, nor to any bank or individual banker for whom there shall not be at the time an agent duly appointed as prescribed in this chapter; nor to banks or individual bankers whose place of business is in either of the cities of New York, Albany, Brooklyn or Troy.

All fees for protesting any such notes shall be paid by the person

procuring the service to be performed and the bank or banker issuing such notes shall be liable for the same, but no part of the securities deposited by such bank or banker shall be applied to the payment of such fees.

**§ 73. Appointment of agent by new corporation.**— Every bank and individual banker who shall hereafter commence business under the laws of this state shall upon first receiving circulating notes from the superintendent, appoint an agent for the purpose of redemption, and be subject in all respects to the provisions of this chapter in relation thereto; and the superintendent shall not deliver any circulating notes to such bank or banker until such appointment is made and filed in his office, which shall be immediately published by the superintendent in the manner hereinbefore provided.

**§ 74. Revocation of appointment.**— Appointments of agents for the purpose of redemption may be revoked and new appointments of agents may be made from time to time by delivering such revocation of appointment to the superintendent, who shall cause the same to be published as hereinbefore provided. Several banks may appoint a common agent. Any number of banks and individual bankers may by agreement associate for raising a joint fund to be placed in the hands of their common agent for the redemption of their circulating notes in the city of New York or Albany, and also the circulating notes of other banks and individual bankers in such manner and under such regulations as may be agreed upon, and employ such agents and clerks as they may deem necessary to carry on the business of the common agency. No such agency shall redeem or purchase any circulating notes at a discount of more than one-half of one per cent, nor relieve or discharge any such bank or banker from any duty or liability required or imposed by this chapter, nor shall any bank or individual banker purchase, buy in or take up, directly or indirectly, its or his circulating notes at an amount less than what purports to be due thereon at any other place or in any other manner than is directed in or by this chapter.

**§ 75. Distribution of funds of insolvent banks.**— The superintendent shall make a final distribution of the funds in his hands arising from the sale of securities deposited with him by banks and individual bankers, which have failed or may hereafter fail to redeem their circulating notes. At the expiration of six years after the first sale made by the superintendent of such securities, he shall issue a final notice to the holders of the circulating notes issued by such bank or banker requiring the presentation thereof within six months after the date of the notice, and any of such notes which shall

not be presented within the time thus specified shall cease to be a charge or claim upon the funds of such bank or banker remaining in the hands of the superintendent. Any such notes which shall be presented within the period above limited shall be received and paid by the superintendent at the same rate which shall have been paid on like notes previously presented, and if all the notes of any bank or individual banker so presented shall have been redeemed at their par value, he shall pay to such bank or banker, the residue of such funds remaining in his hands belonging thereto. If such notes shall not have been redeemed at par, then the holder shall be entitled to a certificate showing the balance, if any, due thereon.

§ 76. **Distribution of residue.**—At the expiration of the notice required by the preceding section, the superintendent shall ascertain the amount of the residue of the fund remaining in his hands belonging to the creditors of such bank or banker and after deducting therefrom the expenses justly chargeable thereon, he shall make a pro rata distribution of the residue upon the outstanding certificates given for the balance due to the holders of the circulating notes of such bank or individual banker, which shall have been redeemed in part, and he shall issue a notice to the holders of such certificates stating the rate or amount payable thereon, and requiring them to present the same within six months after the date of such notice. Any certificate not presented within that time shall cease to be a charge or claim upon the residuary fund in the hands of the superintendent. After making the final distribution herein directed, if any portion of such fund shall remain unclaimed, it shall be deposited in the treasury and applied toward paying the ordinary expenses of the banking department.

§ 77. **Publication of notices.**—The notices required to be given by this chapter to the creditors of an insolvent bank or banker shall be published at least six weeks in one or more newspapers which the superintendent shall deem best calculated to inform such creditors, and the cost of such publication shall be defrayed out of the fund to which such notice shall refer.

§ 78. **Redemption of notes held by banks and individual bankers.**—Any bank or individual banker receiving in the course of its business the circulating notes issued by any other bank or individual banker, may present such notes for redemption and payment in the manner and upon the terms herein provided, either to the lawful redeeming agent or at the counters of the banks or individual bankers issuing them; but every such bank or individual

banker so presenting such notes for redemption, shall present all of such notes on hand at the time of such presentation either to the lawful agents or at the counters of the banks or individual bankers issuing them for redemption and payment in the manner provided by law as often at least as once in each successive week, when more than the sum of ten thousand dollars of such notes are held by the bank or banker presenting them for payment.

Any such bank or individual banker holding such circulating notes who shall elect to present the same for redemption and payment at the counters of the bank or individual banker issuing them, shall cause written or printed notice of such election, attested by the signature of the president or cashier of the bank or banker holding them, under seal, that all of such notes on hand at the time will be presented duly sealed at the counter of the bank or banker issuing them, as often at least as once in each successive week when more than the sum of ten thousand dollars is held by such bank or banker, to be redeemed and paid in the manner required by law. When such notice shall have been given and received, such notes shall thereafter be presented at such counters and not elsewhere for redemption and payment, unless a further notice of ten days shall be given in the same manner that such notes will thereafter be presented for redemption and payment to the lawful redeeming agent of the bank or individual banker issuing them within the times and upon the terms prescribed by law. Any bank or individual banker may redeem, present, hold, pledge or exchange the circulating notes of any other bank or banker in the manner, within the times, and upon such terms conformable to the provisions of law as it may have been agreed upon.

Every bank or individual banker who shall knowingly and willfully neglect or refuse to comply with any provision of this section shall forfeit and pay to the people of the state the sum of one thousand dollars.

§ 79. Banks closing business.— Any bank, or its receiver, trustees or legal representatives, and any individual banker or his assignee, administrator, personal representative or successor, may give notice to the superintendent of the intention of such bank or individual banker to close the business of banking, and thereupon such bank or individual banker shall be entitled to deposit with the superintendent, and he may receive a deposit of, money equal to the amount of the outstanding circulation at the time of such deposit to be placed by him in some bank in the city of Albany, in good credit,



upon the receipt of which the superintendent may return and retransfer to such bank or individual banker all securities in his hands theretofore deposited with him for the redemption of circulating notes by such bank or individual banker. Upon the receipt of such deposit the superintendent shall immediately cause to be published in the state paper and in at least one newspaper in the county where such bank or bankers shall have been located or doing business at least once a week for six months, a notice that the notes of such bank or banker will be redeemed by him at par at the bank where such deposit is made, and that all the outstanding circulating notes of such bank or banker must be so presented for redemption within six years from the date of such notice, and that all notes which shall not be thus presented for redemption and payment within the time specified in such notice shall cease to be a charge upon the fund in the hands of the superintendent for that purpose.

After the expiration of such notice the superintendent may surrender to such bank or banker, and such bank or banker, or any receiver, assignee, trustee or legal representative thereof, shall be entitled to receive from the superintendent all the money remaining in his hands after such redemption, except so much thereof as may be necessary to pay the reasonable expenses chargeable against such bank or banker, including the payment for the publication of such notices.

All circulating notes of such bank or banker which shall not have been presented for payment within the period prescribed in such notice shall, at the expiration thereof, cease to be a lien or charge upon the property of such bank or banker in the hands of any such receiver, assignee, trustee, or legal representative, and all liability of such receiver, assignee, trustee, bank or banker, for or on account of any circulating notes which shall not have been presented within such time shall cease.

Any such trustee, receiver, assignee, bank or banker may, after the full payment of all the circulating notes issued by them respectively which shall have been presented within the time required by such notice, and of all other lawful claims and demands against such bank or banker, divide the remaining property of the bank or banker among the stockholders thereof, their personal representatives or assigns, according to their respective shares or interest therein.

If the bank so designated shall at any time fail or refuse to redeem such notes at par when presented, they shall be protested as required by this chapter, and the superintendent shall thereupon, in

the manner required in this chapter for the redemption of circulating notes, provide for the redemption of such notes.

§ 80. **Proportionate amount of securities to be returned when notes are destroyed.**—On the return to the superintendent and the destruction by him of any of the notes of any bank or individual banker making a deposit as herein required, such bank or individual banker, or its legal representatives, shall be entitled to receive from him a proportionate amount of the securities so deposited. At the expiration of six years from the date of the notice given by the superintendent for the redemption of the circulating notes of banks closing business, such notes shall cease to be a lien upon the securities so deposited, and the same shall be surrendered to the lawful claimant therefor.

§ 81. **Deposit of cash for redemption of notes.**—The superintendent may receive from any bank or banker a deposit of cash, pursuant to the provisions of this chapter relating to the deposit of cash by banks closing business, for the redemption of its circulating notes, without notice of intention to close the business of banking; but the bank or individual banker making such deposit shall continue to make the reports and statements and to publish the same as required of the banks of this state by the laws thereof, and be in all respects amenable to the banking laws of this state, as if in full operation as a bank of discount and deposit, until due notice and evidence of the discontinuance of such business of banking shall be given to the superintendent, which discontinuance shall require the concurrence of the owners of a majority of the shares of stock in the bank. This provision shall extend and apply to any bank that has heretofore made such deposit to redeem its outstanding circulation without having given notice of intention to close its business. Any bank or individual banker having given such notice and made the deposit of cash or securities as required by law, may withdraw such notice at any time within two years after making such deposit, and may thereupon resume the business of banking under its corporate name and subject to the laws of this state; but such withdrawal shall not affect the redemption of its circulating notes previously issued according to the terms advertised by the superintendent as required by law, nor shall such bank be entitled to issue any circulating notes until the time for the redemption of its previous issue shall have expired.

§ 82. **Circulation of foreign bank notes prohibited.**—No bank or individual banker authorized to carry on the business of banking

under the laws of this state shall receive, pay out, give or offer in payment, as money, to circulate or attempt to circulate as money, any bill, note or other evidence of debt issued or purporting to have been issued by any corporation or individual situated or residing without this state, and which bill, note or other evidence of debt shall, upon any part thereof, purport to be payable or redeemable at any place, or by any person or corporation within this state.

No such bank or banker or any person whatever within the state, directly or indirectly, on any pretense whatever, shall procure or receive, or offer to receive, from any corporation or person any bank bill or note or other evidence of debt in the similitude of a bank note, issued or purporting to have been issued by any corporation or individual situated or residing without this state, at a greater rate of discount than is or shall be at the time fixed by law for the redemption of the bills of the banks of this state at their agencies. No such bank or individual banker shall issue, utter or circulate as money, or in any way directly or indirectly aid or assist in the issuing, uttering or circulating as money within this state of any such bank bill, note or other evidence of debt issued or purporting to have been issued by any corporation or individual situated or residing without this state, or procure or receive in any manner whatever, any such bank bill, note or evidence of debt, with intent to issue, utter or circulate, or with intent to aid or assist in issuing, uttering or circulating the same as money within this state. Any bank or individual banker may receive and pay out such foreign bank bills as it shall receive at par in the ordinary course of its business, and it may receive foreign notes from its dealers and customers in the regular and usual course of its business, at a rate of discount not exceeding that which is or shall be at the time fixed by law for the redemption of the bills of the banks of this state at their agencies, and may obtain from the corporations or individuals by which such foreign notes were made the payment or redemption thereof.

Every bank and individual banker who shall offend against any of the provisions of this section or of section eighty-three of this chapter, shall forfeit for each and every offense the sum of one thousand dollars to be recovered with costs in the name and for the use of any person who shall sue for the same.

§ 83. Notes not receivable at par not to be paid out.—No bank or individual banker authorized to carry on the business of banking under the laws of this state shall directly or indirectly lend or pay out for paper discounted or purchased, any bank bill or note

or other evidence of debt which is not received at par by such bank or banker for debts due to such bank or banker.

§ 84. **Bills or notes must be payable on demand.**—No bank or individual banker shall issue or put in circulation any bill or note of such bank or banker unless the same shall be made payable on demand and without interest, except bills of exchange on foreign countries or places beyond the limits or the jurisdiction of the United States, which bills may be made payable at or within the customary usance, or at or within ninety days' sight, and, except certificates of deposit payable on presentation, with or without interest, to bearer or to the order of a person named therein; but no such certificate of deposit shall be issued except as representing money actually on deposit.

§ 85. **When bills of exchange to be without grace.**—All checks, bills of exchange or drafts appearing on their face to have been drawn upon any bank or individual banker carrying on banking business under the laws of this state, which are on their face, payable on any specified day or in any number of days after the date or sight thereof, shall be deemed due and payable on the day mentioned for the payment of the same, without any days of grace being allowed, and it shall not be necessary to protest the same for non-acceptance.

§ 86. **Transfers of securities by superintendent to be countersigned by treasurer.**—No transfer of securities now held or hereafter received by the superintendent to secure circulation shall be valid or of binding force or effect unless countersigned by the treasurer of the state, or in his absence or inability to perform the duties of his office, by his deputy. The treasurer shall keep in his office or in the office of the superintendent of banks, a book in which shall be entered the name of every bank or individual banker, from whose account such transfer of securities is made by the superintendent, and the name of the party to whom such transfer is made, unless such transfer shall be made in blank, in which case the fact shall be stated in such book; and the par value of any stock so transferred shall be entered therein, and the treasurer shall immediately upon countersigning and entering the same, advise by mail the bank or individual banker from whose accounts such transfer is made, of the kind of security and amount of the same thus transferred. The treasurer shall present, in his annual report to the legislature, the total amount of such transfers or assignments countersigned by him.

The treasurer shall at all times during office hours have access to the books of the superintendent of banks for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign; and the superintendent shall have access to the book above mentioned kept by the treasurer during office hours to ascertain the correctness of the entries upon the same.

§ 87. **Unauthorized banking prohibited.**—No person unauthorized by law shall subscribe to or become a member of, or be in any way interested in any association, institution or company formed or to be formed for the purpose of issuing notes or other evidences of debt to be loaned or put in circulation as money; nor shall any such person subscribe to or become in any way interested in any bank or fund created or to be created for the like purposes or either of them. No corporation, without being authorized by law, shall employ any part of its property, or be in any way interested in any fund which shall be employed for the purpose of receiving deposits, making discounts, or issuing notes or other evidences of debt to be loaned or put into circulation as money. All notes and other securities for the payment of any money or the delivery of any property, made or given to any such association, institution or company, or made or given to secure the payment of any money loaned or discounted by any corporation or its officers, contrary to the provisions of this section, shall be void.

No person, association of persons or corporation, except such as are expressly authorized by law, shall keep any office for the purpose of issuing any evidences of debt, to be loaned or put in circulation as money; nor shall they issue any bills or promissory notes or other evidences of debt as private bankers, for the purpose of loaning them or putting them in circulation as money, unless thereto specially authorized by law.

Every person, and every corporation, director, agent, officer or member thereof, who shall violate any provision of this section, directly or indirectly, or assent to such violation, shall forfeit one thousand dollars to the people of the state.

§ 88. **Restrictions as to foreign corporations.**—No foreign corporation, other than a national bank, shall keep any office for the purpose of receiving deposits or discounting notes or bills, or issuing any evidence of debt to be loaned or put in circulation as money within this state.

§ 89. **Restrictions as to banks and their officers.**—No bank in this state, nor any officer or director thereof, shall open or keep

an office of deposit or discount other than its usual place of business.

Every such officer or director violating the provisions of this section shall forfeit to the people of the state the sum of one thousand dollars for every such violation.

**§ 90. Bills payable otherwise than in money prohibited. —** No person shall give, pay or receive in payment, or in any way circulate, or attempt to circulate, any bank bill, or any promissory note, bill, check, draft or other evidence of debt, issued by any bank or individual banker, which shall be made payable otherwise than in lawful money of the United States.

Every person violating this provision shall forfeit to the people of the state the face amount or value of such bill, note or other evidence of debt so given, paid, received, circulated or offered, to any person who will sue for the same within sixty days after the commission of the offense.

**§ 91. Certain bills declared to be promissory notes. —** All bills, notes or other instruments which shall be issued by any bank or individual banker purporting to be receivable in payment of debts due to it, shall be deemed and taken to be promissory notes for the payment on demand of the sum or value expressed in such instrument, and such sum shall be recoverable by the holder or bearer of such instrument, in like manner as if the same were a promissory note.

**§ 92. Use of sign indicating bank by unauthorized persons prohibited. —** No person engaged in the business of banking in this state, not subject to the supervision of the superintendent and not required to report to him by the provisions of this chapter, shall make use of any office sign at the place where such business is transacted, having thereon any artificial or corporate name, or other words indicating that such place or office is the place or office of a bank; nor shall such person or persons make use of or circulate any letter-heads, bill-heads, blank notes, blank receipts, certificates, circulars, or any written or printed or partly written and partly printed paper whatever, having thereon any artificial or corporate name, or other word or words, indicating that such business is the business of a bank.

Every person violating this provision shall forfeit the sum of one thousand dollars. But this section shall not apply to any person or persons engaged in the business of banking prior to October 1, 1892.



## ARTICLE III.

## SAVINGS BANKS.

## SECTION 100. Incorporation.

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135. Deposit of unclaimed moneys.

§ 100. Incorporation.—Thirteen or more persons, two-thirds of whom shall be residents of the county where the proposed bank shall be located, may become a savings bank by executing under their hands and seals and acknowledging a certificate in duplicate, one of which shall be filed in the office of the clerk of such county, and the other in the office of the superintendent of banks within sixty days after its acknowledgment, which shall set forth :

1. The name by which the corporation shall be known.

2. The place where its business is to be transacted, designating the particular city, village or town, and, if in a city, the ward therein.

3. The name, residence, and, if in a city, the street and number, occupation and post-office address, of each member of the corporation.

4. A declaration that each member of the corporation will accept the responsibilities and faithfully discharge the duties of a trustee in such corporation when authorized according to the provisions of law.

§ 101. **Notice of intention to organize.**—A notice of intention to organize such savings bank shall be published at least once a week for four weeks previous to filing such certificate in at least one newspaper of the largest circulation published in the city, village or town where such savings bank is proposed to be located, or, if there is no newspaper published therein, then some newspaper published in the county; if none in the county, in an adjoining county; which notice shall specify the names of the proposed incorporators, the name of the proposed savings bank, and the location of the same as set forth in the certificate; and if there is any savings bank organized and doing business in such county, a copy of such notice shall also be sent to every such savings bank so organized and doing business, at least fifteen days before the filing of such certificate.

§ 102. **Filing of certificate by superintendent.**—If such certificate shall not be in form and substance as required by this article and not duly and properly acknowledged, or not accompanied by evidence satisfactory to the superintendent of the publication and service in good faith according to the intent and purpose of this article of the notice required by the preceding section, the superintendent shall refuse to file such certificate until it shall be amended in conformity to the provisions of this article. If such certificate is in due form and duly executed according to the provisions of this article and is accompanied by evidence satisfactory to the superintendent of the proper publication and service in good faith of such notice, he shall forthwith indorse the same over his official signature "filed for examination," with the date of such indorsement.

§ 103. **Examination by superintendent.**—The superintendent shall thereupon ascertain from the best sources of information at his command:

1. Whether greater convenience of access to a savings bank will be afforded to any considerable number of depositors by opening a savings bank in the place designated in the certificate.

2. Whether the density of the population in the neighborhood designated for such savings bank, and in the surrounding country, affords a reasonable promise of adequate support to the enterprise.

3. Whether the responsibility, character and general fitness for the discharge of the duties appertaining to such a trust of the persons named in the certificate, are such as to command the confidence of the community in which such savings bank is proposed to be located.

§ 104. **Certificate of authorization.**—If the superintendent shall be satisfied from his own knowledge or from information gained concerning the several matters specified in the last section, that the organization of the savings bank as proposed in such certificate will be a public benefit, he shall, within sixty days after the same has been filed by him for examination, issue under his hand and official seal the certificate of authorization required by this chapter to the persons named in such certificate, or to a portion of them, together with such other persons as a majority of those named in such certificate shall in writing approve, which shall authorize the persons named therein to open an office for the deposit of savings as designated in the certificate, subject to the provisions of this chapter. No person shall be named in such certificate of authorization, who shall not have made and duly acknowledged the declaration prescribed in subdivision four of section one hundred of this chapter.

The superintendent shall transmit such certificate of authorization to the county clerk of the county in which the savings bank is to be located, who shall file the same and attach it to the certificate of incorporation previously filed by him and record both certificates in the book of record of incorporations; and the superintendent shall also file a duplicate of such certificate in his own office.

If the superintendent shall not be satisfied that the establishment of a savings bank as proposed in any certificate filed by him is expedient and desirable, he shall, within sixty days after the filing thereof, give notice to the county clerk of the county in which such savings bank is proposed to be located, that he refuses to issue a certificate of authorization for such savings bank, which notice shall forthwith be filed by the county clerk with the certificate of incorporation of such savings bank.

§ 105. **When persons named in certificate become a corporation; powers.**—Upon the filing of any certificate of authorization of a savings bank as hereinbefore provided, the persons named therein, and their successors, shall thereupon become and be a cor-

poration, and be vested with all the powers and charged with all the liabilities conferred and imposed by law upon savings banks; and in addition to the powers conferred by the general corporation law, every such corporation shall have power to receive on deposit any sum of money that may be offered for that purpose by any person, or by any corporation or society, and to invest the same, and to declare, credit and pay dividends thereon, and further, to transact the business of a savings bank as hereinafter provided and not otherwise. No such corporation shall receive deposits until it shall have transmitted to the superintendent of banks the name, residence and post-office address of each of the officers of such savings bank.

**§ 106. Must begin business within one year.**— Every such corporation which shall not organize and commence business within one year after the certificate of authorization has been filed, shall forfeit its rights and privileges as a corporation under this chapter. The superintendent of banks may, for satisfactory cause to him shown, by an order under his hand and official seal, extend the term within which such organization may be effected and such business commenced, for not more than one year. Such order shall be transmitted to the county clerk of the county in which such saving bank is to be located, who shall file the same, together with its certificate of incorporation and certificate of authorization.

**§ 107. Trustees and their powers.**— There shall be a board of not less than thirteen trustees of every such corporation, who shall have the entire management and control of all its affairs, and who shall elect from their number, or otherwise, a president and two vice-presidents and such other officers as they may deem fit.

The persons named in the certificate of authorization shall be the first trustees. A vacancy in the board shall be filled by the board, as soon as practicable, at a regular meeting after a vacancy occurs.

No person shall hereafter be elected a trustee who is not a resident of the state; and removal from the state by a trustee, after his election or appointment, vacates his office.

**§ 108. By-laws.**— The board of trustees of any such corporation may from time to time make such by-laws, rules and regulations, not inconsistent with law, as they may think proper for the election of officers, for prescribing their respective powers and duties and the manner of discharging the same, for the appointment and duties of committees, and generally for transacting, managing and directing the affairs of the corporation; and a copy of the same shall be transmitted to the superintendent of banks, who shall also be notified of any amendment or change therein.

§ 109. **Meeting of trustees ; quorum.**—Regular meetings of the board of trustees shall be held as often as once a month for the purpose of receiving the reports of their officers and committees, and for the transaction of other business. A quorum at any regular or special or adjourned meeting shall consist of not less than seven, of whom the president shall be one, except when prevented from attending by sickness or other unavoidable detention, when he may be represented in forming a quorum by the vice-president, who, in case of his absence for like cause, may be represented by the second vice-president ; but less than a quorum shall have power to adjourn from time to time or until the next regular meeting.

§ 110. **Vacancies.**—Whenever a trustee of any savings bank shall become a trustee, officer, clerk or employe of any other savings bank, or when he shall borrow directly or indirectly, any of the funds of the savings bank in which he is trustee, or become a surety or guarantor for any money borrowed of or a loan made by such savings bank, or when he shall fail to attend the regular meetings of the board, or perform any of the duties devolved upon him as such trustee, for six successive months, without having been previously excused by the board for such failure, the office of such trustee shall thereupon immediately become vacant ; but the trustee vacating his office by failure to attend meetings, or to discharge his duties, may, in the discretion of the board, be eligible to re-election.

§ 111. **Security may be required and salaries fixed.**—The trustees of any such corporation shall have power to require from the officers, clerks and agents of the corporation such security for their fidelity and the faithful performance of their duties, as they shall deem necessary and to fix the salaries of such officers and agents, subject to the provisions of this chapter.

Such security may be accepted from any company authorized to furnish fidelity bonds, doing business under authority of the New York insurance department which may be approved by the superintendent of the banking department and the premiums paid therefor may be paid by and shall be allowed to said corporation as a necessary disbursement.

§ 112. **Dividends, compensation and loans to trustees prohibited.**—No trustee of any such corporation shall have any interest, direct or indirect, in the gains or profits thereof, nor as such, directly or indirectly, receive any pay or emolument for his services, except as hereinafter provided ; and no trustee or officer of any such corporation shall directly or indirectly, for himself or as an agent or

partner of others, borrow any of its funds or deposits, or in any manner use the same except to make such current and necessary payments as are authorized by the board of trustees; nor shall any trustee or officer of any such corporation become an indorser or surety, or become in any manner an obligor, for moneys loaned by or borrowed of such corporation.

**§ 113. Repayment of deposits; regulations; limitation.—**The sums deposited with any savings bank, together with any dividends or interest credited thereto, shall be repaid to such depositors respectively, or to their legal representatives, after demand, in such manner and at such times, and after such previous notice, and under such regulations, as the board of trustees shall prescribe. Such regulations shall be posted in a conspicuous place in the room where the business of the corporation shall be transacted, and shall be printed in the pass-books or other evidences of deposit furnished by it, and shall be evidence between the corporation and the depositors holding the same, of the terms upon which the deposits therein acknowledged are made. Every such corporation may limit the aggregate amount which any one person or society may deposit to such sum as it may deem expedient to receive, and may, in its discretion, refuse to receive a deposit, and may also at any time return all or any part of any deposit. The aggregate amount of deposits to the credit of any individual at any time shall not exceed three thousand dollars, exclusive of deposits arising from judicial sales or trust funds or interest; and to the credit of any society or corporation at any time, shall not exceed five thousand dollars, exclusive of accrued interest, unless such deposit was made prior to May 17, 1875, or pursuant to an order of a court of record.

**§ 114. Deposits of minors, and trust deposits.—**When any deposit shall be made by or in the name of any minor, the same shall be held for the exclusive right and benefit of such depositor, and free from the control or lien of all other persons, except creditors, and shall be paid, together with the dividends and interest thereon to the person in whose name the deposit shall have been made, and the receipt or acquittance of such minor shall be a valid and sufficient release and discharge for such deposit or any part thereof to the corporation.

When any deposit shall be made by any person in trust for another, and no other or further notice of the existence and terms of a legal and valid trust shall have been given in writing to the bank, in the event of the death of the trustee, the same, or any part thereof, together with the dividends or interest thereon, may be paid to the person for whom the deposit was made.



§ 115. Wife witness against husband ; claimants may be interpleaded.—In all actions in any court of this state against any savings bank by a husband to recover for moneys deposited by his wife in her own name, or as her own money, the wife may be examined and testify as a witness in like manner as if she were an unmarried woman.

In all actions against any savings bank to recover for moneys on deposit therewith, if there be any person or persons, not parties to the action, who claim the same fund, the court in which the action is pending, may, on the petition of such savings bank, and upon eight days notice to the plaintiff and such claimants, make an order amending the proceedings in the action by making such claimants parties defendant thereto ; and the court shall thereupon proceed to determine the rights and interests of the several parties to the action in and to such funds.

The funds on deposit which are the subject of the action may remain with such savings bank upon the same interest as other deposits of like amount to the credit of the action, until final judgment therein, and the same shall be paid by such savings bank in accordance with the order of the court ; or the deposit in controversy may be paid into court to await the final determination of the action ; and when so paid into court the corporation shall be stricken out as a party to any such action, and its liability for such deposit shall cease.

The costs in the acts referred to in this section shall in all cases be in the discretion of the court, and may be charged upon the fund affected by the action. The statutes limiting the time within which actions shall be commenced shall have no application to actions brought by depositors, their representatives or assigns, against savings banks for deposits made therein

§ 116. In what securities deposits may be invested.—The trustees of any savings bank may invest the moneys deposited therein and the income derived therefrom only as follows :

1. In the stocks or bonds, or interest-bearing notes or obligations of the United States, or those for which the faith of the United States is pledged to provide for the payment of the interest and principal, including the bonds of the District of Columbia.

2. In the stocks or bonds or\* interest-bearing obligations of this state, issued pursuant to the authority of any law of the state.

3. In the stocks or bonds or interest-bearing obligations of any state of the United States which has not within ten years previous

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\* So in the original.

to making such investment by such corporation defaulted in the payment of any part of either principal or interest of any debt authorized by the legislature of any such state to be contracted.

4. In the stocks or bonds of any city, county, town or village, school district bonds, and union free school district bonds, issued for school purposes, or in the interest-bearing obligations of any city or county of this state, issued pursuant to the authority of any law of the state for the payment of which the faith and credit of the municipality issuing them are pledged.

5. In bonds and mortgages on unincumbered real property situated in this state, worth at least twice the amount loaned thereon. Not more than sixty-five per cent of the whole amount of deposits shall be so loaned or invested. If the loan is on unimproved and unproductive real property, the amount loaned thereon shall not be more than forty per centum of its actual value. No investment in any bond and mortgage shall be made by any savings bank, except upon the report of a committee of its trustees charged with the duty of investigating the same, who shall certify to the value of the premises mortgaged or to be mortgaged according to their best judgment, and such report shall be filed and preserved among the records of the corporation.

6. In real property subject to the provisions of the next section.

**§ 117. Limitation as to real property.**—Every such corporation may purchase, hold or convey real property only as follows :

1. A plot whereon is erected or may be erected a building or buildings requisite for the convenient transactions of its business, and from portions of which not required for its own use, a revenue may be derived. The cost of such building or buildings and lot shall in no case exceed fifty per centum of the net surplus of the corporation, except by written permission of the superintendent of banks.

2. Such as shall have been purchased by it at sales upon the foreclosure of mortgages owned by it, or on judgments or decrees obtained or rendered for debts due to it, or in settlements effected to secure such debts. All such real property shall be sold by such corporation within five years after the same shall be vested in it, unless, upon application by the board of trustees, the superintendent shall extend the time within which such sale shall be made.

Every such corporation may, with the approval in writing and under the seal of the superintendent of banks, change its location within the limits of any city or town wherein it may be established.

In effecting such change of location such corporation owning a banking-house and lot, may purchase such additional plot under the provisions of subdivision one of this section as the corporation may require; and such banking-house and lot previously owned and occupied shall be sold as provided in this subdivision concerning real property acquired in satisfaction of debts.

**§ 118. Available fund for current expenses; how loaned.—**The trustees of every such corporation shall as soon as practicable invest the moneys deposited with them in the securities authorized by this article; but for the purpose of meeting current payments and expenses in excess of the receipts, there may be kept an available fund not exceeding ten per centum of the whole amount of deposits with such corporation, on hand or deposit in any bank in this state organized under any law of this state or of the United States, or with any trust company incorporated by any law of the state; but the sum so deposited in any one bank or trust company shall not exceed twenty-five per centum of the paid-up capital and surplus of any such bank or company; or such available fund, or any part thereof, may be loaned upon pledge of the securities or any of them named in subdivisions one, two, three and four of the preceding section but one, but not in excess of ninety per centum of the cash market value of such securities so pledged. Should any of the securities so held in pledge depreciate in value, after making any loan thereon, the trustees shall require the immediate payment of such loan or of a part thereof, or additional security therefor, so that the amount loaned shall at no time exceed ninety per centum of the market value of the securities pledged for the same.

**§ 119. Temporary deposits.—**Every such corporation may also deposit temporarily in the banks or trust companies specified in the last section the excess of current daily receipts over the payments, until such time as the same can be judiciously invested in the securities required by this article. Whenever it shall appear to the superintendent of banks that the trustees of any such corporation are violating the spirit and intent of this provision by keeping permanently uninvested all or an undue proportion of the moneys received by them, he shall report the facts to the attorney-general, who shall proceed against such corporation in the manner provided in section eighty-two of this chapter.

**§ 120. Personal security prohibited; loans on bond and mortgage.—**The trustees of any savings bank shall not loan the moneys deposited with them or any part thereof, upon notes, bills of exchange,

drafts or any other personal securities whatever. In all cases of loans upon real property, a sufficient bond secured by a mortgage thereon, shall be required of the borrower, and all the expenses of searchers,\* examinations and certificates of title or appraisal of value, and of drawing, perfecting and recording papers, shall be paid by the borrower.

§ 121. **Mortgaged property to be insured.**—Whenever buildings are included in the valuation of any real property upon which a loan shall be made by any such corporation, they shall be insured by the mortgagor in such company or companies as the directors shall direct, and the policy of insurance shall be duly assigned, or the loss made payable as its interest may appear, to such corporation; and any such corporation may renew such policy of insurance in the same or any other company or companies as they may elect, from year to year, or for a longer or shorter term, in case the mortgagor shall neglect to do so, and may charge the amount paid to the mortgagor. All the necessary charges and expenses paid by such corporation for such renewal or renewals shall be paid by the mortgagor to the corporation, and shall be a lien upon the property mortgaged, recoverable with interest from the time of payment as part of the moneys secured to be paid by the mortgage.

§ 122. **Restrictions on methods of doing business.**—No savings banks shall directly or indirectly deal or trade in real property in any other case or for any other purpose than is authorized by this article, or deal or trade in any goods, wares, merchandise or commodities whatever, except as authorized by this article, and except such personal property as may be necessary in the transaction of its business; nor shall any savings bank or any officer thereof in his regular attendance upon the business of the bank, in any manner buy or sell exchange, or gold or silver, or collect or protest promissory notes or time bills of exchange; but savings banks may sell gold or silver received in payment of interest or principal of obligations owned by them, or from depositors in the regular course of business, and may pay regular depositors when requested by them by draft upon deposits to the credit of the bank in the city of New York, and charge current rates of exchange for such drafts.

No savings bank shall make or issue any certificate of deposit payable either on demand or at a fixed day, or pay any interest except regular quarterly or semi-annual dividends upon any deposits or balances, or pay any interest or deposit, or portion of a deposit, or any check drawn upon itself by a depositor unless the pass-book

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\* So in the original.

of the depositor be produced, and the proper entry be made therein at the time of the transaction.

The board of trustees may, by their by-laws, provide for making payments in cases of loss of pass-book, or other exceptional cases where the pass-book can not be produced without loss or serious inconvenience to depositors, the right to make\* such payments to cease when so directed by the superintendent of banks, upon his being satisfied that such right is being improperly exercised by any savings bank; out payments may be made upon the judgment or order of a court or the power of attorney of a depositor.

§ 123. Rate of interest; extra dividends.—The trustees of every such corporation shall regulate the rate of interest or dividends not to exceed five per centum per annum upon the deposits therewith, in such manner that depositors shall receive as nearly as may be, all the profits of such corporation, after deducting necessary expenses and reserving such amounts as the trustees may deem expedient as a surplus fund for the security of the depositors, which to the amount of fifteen per cent of its deposits, the trustees of any such corporation may gradually accumulate and hold, to meet any contingency or loss in its business from the depreciation of its securities or otherwise. The trustees may classify their depositors according to the character, amount and duration of their dealings with the corporation, and regulate the interest or dividends allowed in such manner that each depositor shall receive the same ratable portion of interest or dividends as all others of his class.

The trustees of any such corporation shall not declare or allow interest on any deposit for a longer period than the same has been deposited, except that deposits made not later than the tenth day of the month, commencing any semi-annual interest period, or the third day of any month, or withdrawn upon one of the last three days of the month, ending any quarterly or semi-annual interest period, may have interest declared upon them for the whole of the period or month when so deposited or withdrawn.

No dividends or interest shall be declared, credited or paid, except by the authority of a vote of the board of trustees duly entered upon their minutes, whereon shall be recorded the ayes and nays upon each vote; but accounts closed between dividend periods may be credited with interest at the rate of the last dividend, computing from the last dividend period to the date when closed, if the by-laws so provide. Whenever any interest or dividend shall be declared and credited in excess of the interest or profits earned and

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\* So in the original.

appearing to the credit of the corporation, the trustees voting for such dividend shall be jointly and severally liable to the corporation for the amount of such excess so declared and credited.

The trustees of any such corporation whose surplus amounts to fifteen per cent of its deposits, at least once in three years, shall divide equitably the accumulation beyond such authorized surplus as an extra dividend to depositors, in excess of the regular dividends authorized. A notice posted conspicuously in a bank of a change in the rate of interest shall be equivalent to a personal notice.

§ 124. **Per cent of surplus, how determined.**— In determining the per cent of surplus held by any savings bank its interest-paying stocks and bonds shall not be estimated above their par value or above their market value if below par. Its bonds and mortgages on which there are no arrears of interest for a longer period than six months shall be estimated at their face, and its real property at not above cost. The superintendent of banks shall determine the valuation of such stocks or bonds, or bonds and mortgages, as are in arrears of interest for six months or more, and of all other investments not herein enumerated, from the best information he can obtain, and he may change the valuation thereof from time to time as he may obtain other and further information.

§ 125. **Compensation of officers.**— The trustees of such corporation acting as officers of the same, whose duties require and receive their regular and faithful attendance at the institution, and the trustees appointed as a committee to examine the vouchers and assets pursuant to section one hundred and twenty-eight of this chapter, or to perform the duties required by subdivision 5 of section one hundred and sixteen of this chapter, may receive such compensation as in the opinion of a majority as the board of trustees shall be just and reasonable ; but such majority shall be exclusive of any trustee to whom such compensation shall be voted. Trustees, as such, shall not be paid for their attendance at meetings of the board.

§ 126. **No other report or inspection required.**— No such corporation shall hereafter be required to make any annual or other report to the legislature or to the mayor or commonalty of any city, nor to the board of supervisors of any county, nor to any other officer or authority except as provided in this chapter ; not\* shall it be subject to the inspection or supervision of any local officer or board, nor to any interference from any such officer or board, in any manner appertaining to its business or dealings.

§ 127. **Proceedings against delinquent corporations.**— When it shall appear to the superintendent from an examination

\* So in the original.



made by or reported to him, or from a report made by any such corporation pursuant to the provisions of this chapter, that it has committed any violation of its charter or of law, or is conducting its business and affairs in an unsafe or unauthorized manner, he shall, by an order under his hand and official seal, direct a discontinuance of such illegal and unsafe or unauthorized practices, and strict conformity with the requirements of the law, and with safety and security in its transactions. If any such corporation shall refuse or neglect to make any report required by law, or to comply with any such order, or if it shall appear to the superintendent that it is unsafe or inexpedient for it to continue to transact business, or that any trustee or officer thereof has abused his trust, or been guilty of misconduct or malversation in his official position injurious to the bank or to its depositors, the superintendent shall report the facts in writing to the attorney-general. The attorney-general may thereupon bring an action or institute proceedings for the dissolution of the corporation or for the removal of one or more of its trustees or for the transfer of its corporate powers to other persons, or for the consolidation and merger of the corporation with any other savings bank that may be willing to accept of the trust, or for such other or further relief or correction as the facts reported to him may seem to require.

The court before which any such action or proceeding shall be instituted shall have power to grant such orders, and in its discretion from time to time to modify or revoke the same, and to grant such relief and render such judgment as the facts or evidence of the case or the situation of the parties and the interests involved, shall seem to require. If in such proceedings an order shall be granted upon notice or without notice restraining such corporation and its officers from paying out or disposing of any moneys or property of or held by it, the superintendent may, and, if directed by the court, shall take temporary possession of all the assets, property and rights of or held by such corporation, and hold possession thereof until the further order of the court.

§ 128. Examination of vouchers and assets by trustees.—The trustees of every savings bank, by a committee of not less than three of their number, on or before the first days of January and July in each year, shall thoroughly examine the books, vouchers and assets of such savings bank, and its affairs generally. The statement or schedule of assets and liabilities reported to the superintendent of banks for the first of January and July in each year shall be based upon such examination, and shall be verified by the

oath of a majority of the trustees making it; and the trustees of any savings bank may require such examination at such other times as they shall prescribe. The trustees shall, as often as once in each six months during each year, cause to be taken an accurate balance of their depositors' ledgers, and in their semi-annual report to the superintendent they shall state the fact that such balance has been taken, and the discrepancies, if any, existing between the amount due depositors, as shown by such balance, and the amount so due as shown by the general ledger.

**§ 129. Expenses to be paid.**— For the purpose of defraying the expenses incurred in the performance by the superintendent of the duties imposed upon him with respect to savings banks, other than the examinations thereof, each such corporation shall annually pay five dollars into the treasury of the state, and the residue of such expenses to be apportioned among them by the superintendent shall be paid into the treasury of the state by savings banks whose deposits exceed one hundred thousand dollars, in proportion to the amount of assets severally held and reported by them. If any savings bank shall, after due notice, refuse or neglect for thirty days to pay its allotted share of such charges, the superintendent shall report the fact to the attorney-general, who may maintain an action in the name of the people against such corporation for the recovery of such charges, and the same, when recovered, shall be paid into the treasury of the state.

**§ 130. Debts due savings banks from insolvent banks preferred.**— All the property of any bank or trust company which shall become insolvent, shall, after providing for the payment of its circulating notes, if it has any, be applied by the trustees, assignees or receiver thereof in the first place, to the payment in full of any sum or sums of money deposited therewith by any savings bank, but not to an amount exceeding that authorized to be so deposited by the provisions of this chapter, and subject to any other preference provided for in the charter of any such trust company.

**§ 131. Advertisements of unauthorized savings banks prohibited.**— No bank, banking association, individual banker, firm, association, corporation, person or persons shall advertise or put forth a sign as a savings bank, or in any way solicit or receive deposits as a savings bank. Any bank, banking association, individual banker, firm, association, corporation, person or persons violating this provision shall forfeit to the people of the state for every offense the

sum of one hundred dollars for every day such offense shall be continued.

§ 132. **Charters to be conformed to this chapter.**—The powers, privileges and duties, and all restrictions, conferred or imposed upon any savings bank by whatever name known, by its charter or act of incorporation, are hereby abridged, enlarged or modified, as each particular case\* may require, in such manner that every such charter or act of incorporation shall be made to conform to the provisions of this chapter in relation thereto, and to such amendments thereof as may be hereafter made. Every such savings bank shall possess the powers, rights and privileges, and be subject to the duties, restrictions and liabilities, conferred and imposed by this chapter, notwithstanding anything to the contrary in their respective charters or acts of incorporation. The legality of investments heretofore made, or to\* transactions heretofore had, pursuant to any provisions of law in force when such investments were made or transactions had, shall not be affected by the provisions of this chapter, nor shall such provisions require the change of investments for those named in this chapter, except as the same can be done gradually by the sale or redemption of the securities so invested in, in such manner as to prevent loss or embarrassment in the business of such savings bank, or unnecessary loss or injury to the borrowers on such securities.

§ 133. **Savings bank voluntarily closed.** — If the director\* of any solvent savings bank shall deem it necessary or expedient to close the business of such corporation, they may, by the affirmative vote of not less than two-thirds of the whole number of trustees, at a meeting to be called for that purpose, of which all the trustees shall have notice, declare by resolution their determination to close such business and to pay the moneys due depositors and creditors and to surrender the corporate franchise. The vote on such resolution shall be taken by ayes and noes and the resolution and the vote thereon shall be recorded in the minutes of the board of trustees. A copy of the record of such proceedings certified by the president and secretary of the corporation shall be filed in the banking department. The trustees shall thereupon give notice to all the depositors and creditors of the adoption of such resolution by publication thereof in a newspaper or newspapers most likely to give the same proper publicity, and by written or printed notice personally served upon or mailed to every depositor and creditor of such savings bank at their last known residences, postage prepaid.

§ 134. **When dissolution effected.**— When the trustees of any

\* So in the original.

such savings bank shall have paid the sums due respectively to all the depositors and creditors who claim their deposits, or the money due, the trustees shall make a transcript or statement from the books of the savings bank of the names of all the depositors and creditors who do not claim or have not received the balance of their credit or due them, and of the sums due them respectively, and shall file such transcript in the banking department, and pay over and transfer all such unclaimed and unpaid deposits, credits and moneys to the superintendent of banks. The trustees shall then report their proceedings duly verified to the supreme court, and upon such report and the petition of the trustees and upon notice to the attorney-general and the superintendent, and such other notice as the court may deem necessary, the court shall adjudge the franchise surrendered and the existence of the corporation terminated.

§ 135. **Deposit of unclaimed moneys.**—The superintendent shall receive the moneys so deposited with him by the trustees of any solvent savings bank voluntarily closing its business, and all moneys which may be deposited with him by the receivers of insolvent savings banks pursuant to the provisions of any law or the order of any court, and shall give a receipt therefor, and forthwith deposit the same in some solvent savings bank or savings banks to the credit of the superintendent of banks in his name of office, in trust for the depositors and creditors of the closed savings bank from which they were received. The superintendent shall report to the legislature annually in his report the names of such closed savings banks and the sums of unclaimed and unpaid deposits to the credit of each of them respectively.

The superintendent may pay over to the persons respectively entitled thereto the moneys so held by him upon being furnished with satisfactory evidence of their right to the same. In cases of doubt or of conflicting claims he may require an order of the supreme court authorizing and directing the payment thereof. He may apply the interest earned by the moneys so held by him towards defraying the expenses in the payment and distribution of such unclaimed dividends to the depositors and creditors entitled to receive the same, and he shall include, in his annual report to the legislature, a statement of the amount of interest earned by such unclaimed dividends.

## ARTICLE IV.

## TRUST COMPANIES.

## SECTION 150. Incorporation.

151. Previous notice of intention to be given.
152. When superintendent shall file certificate.
153. Examination by and certificate of superintendent.
154. Capital must be paid in cash.
155. List of stockholders to be furnished to superintendent.
156. Powers of corporation.
157. May be administrator, guardian or trustee.
158. No security required; trust fund debts preferred.
159. Investments of capital and deposits.
160. Interest and accumulations.
161. Directors.
162. Liability of stockholders and directors.
163. Powers of specially chartered trust companies.

§ 150. Incorporation.—Thirteen or more persons may form a corporation to be known as a trust company. Such persons shall under their hands and seals execute and acknowledge an organization certificate in duplicate, which shall specifically state:

1. The name by which the corporation shall be known.
2. The place where its business is to be transacted.
3. The amount of its capital stock, and the number of shares into which the same is to be divided.
4. The name, residence and post-office address of each member of the corporation.
5. The term of its existence, not exceeding fifty years.
6. A declaration that each member of the corporation will accept the responsibilities and faithfully discharge the duties of a director therein, if elected to act as such, when authorized by the provisions of this chapter.

Such certificate shall, within sixty days after its acknowledgment, be filed, one in the office of the county clerk of the county wherein such trust company is proposed to be located, and one in the office of the superintendent of banks of the state. The capital stock of any such corporation must be at least five hundred thousand dollars; provided, however, that a corporation with a capital of not less than two hundred thousand dollars may be organized in any city containing more than one hundred thousand inhabitants and less than two hundred and fifty thousand inhabitants, and a corporation may be organized with a capital of not less than one hundred and fifty thousand dollars in any city containing more than twenty-five

thousand inhabitants and less than one hundred thousand inhabitants, and with a capital of at least one hundred thousand dollars in a city the population of which does not exceed twenty-five thousand, the number of inhabitants in each case to be ascertained or determined by the last federal or state enumeration

§ 151. **Previous notice of intention to be given.**— Before filing the organization certificate, a notice of intention to organize such trust company shall be published at least once a week for four weeks in a newspaper to be designated by the superintendent of banks published in the city where such trust company is proposed to be located. Such notice shall specify the names of the proposed corporators, the name of the proposed corporation and the location of the same, as set forth in such organization certificate. If there is any trust company or trust companies organized and doing business in such city, a copy of such notice shall also be sent to each trust company so organized and doing business at least fifteen days before the filing of the organization certificate.

§ 152. **When superintendent shall file certificate.**— Upon the receipt of any such organization certificate at the office of the superintendent, if it shall not be in form and substance, or duly and properly acknowledged, as required by this article, or shall not be accompanied by evidence satisfactory to the superintendent of the publication and service in good faith according to the intent and purpose of this chapter of the notice required by this article, the superintendent shall refuse to file such certificate, until it shall be amended in conformity to the provisions of this article. If such certificate is in due form and duly executed according to the provisions of this article, and is accompanied by evidence satisfactory to the superintendent of the proper publication and service in good faith of such notice, he shall forthwith indorse the same over his official signature, "filed for examination," with the date of such indorsement.

§ 153. **Examination by and certificate of superintendent.**— When such certificate shall have been filed, the superintendent shall ascertain from the best sources of information at his command whether the general fitness for the discharge of the duties appertaining to such a trust of the persons named in the certificate is such as to command the confidence of the community in which such trust company is proposed to be located, and whether the public convenience and advantage would be promoted by such establishment. If so satisfied, he shall, within sixty days after such certificate has been filed by him for examination, issue under his hand and official seal the certificate of authorization required by this chapter to the



persons named in such certificate, or to a portion of them, together with such other persons as a majority of those named in such organization certificate shall by writing approve, which certificate, so issued by him, shall authorize the persons named therein to become a trust company as designated in the organization certificate, subject to the provisions of this chapter; but no person shall be named in such certificate of authorization who shall not have duly made and acknowledged the declaration prescribed in subdivision six of section one hundred and fifty. The superintendent shall transmit such certificate of authorization to the county clerk of such county, who shall file the same and attach it to the organization certificate previously filed by him, and record both certificates in the book of records of incorporation, and the superintendent shall also file a duplicate of such certificate in his own office.

If the superintendent shall not be satisfied that the establishment of a trust company as proposed in any organization certificate filed by him is expedient and desirable, he shall, within sixty days after the filing of such certificate by him, give notice to the county clerk, of such county that he refuses to issue a certificate of authorization for such trust company, which notice shall be forthwith filed by the county clerk with the organization certificate.

§ 154. **Capital must be paid in cash.**—The superintendent of banks shall, before issuing a certificate of authorization to any such corporation, examine, or cause an examination to be made, in order to ascertain whether the requisite capital of such corporation has been paid in in cash; and if it appears from such examination that such capital has not been fully paid in in cash, a certificate of authorization shall not be granted; and no such corporation shall commence business until such certificate of authorization has been granted.

§ 155. **List of stockholders to be furnished to superintendent.**—Before entering upon active business, every such corporation shall file with the superintendent of banks a list of its stockholders, giving the name, residence, post-office address and number of shares of stock held by each of them respectively, which shall be verified by the two principal officers of the corporation.

§ 156. **Powers of corporation.**—Upon the filing of any such certificate of authorization of a trust company, the persons named therein and their successors shall thereupon and thereby become a corporation and in addition to the powers conferred by the general and stock corporation laws, shall have power:

1. To act as the fiscal or transfer agent of any state, municipality,

body politic or corporation; and in such capacity to receive and disburse money, and transfer, register and countersign certificates of stock, bonds or other evidences of indebtedness.

2. To receive deposits of trust moneys, securities and other personal property from any person or corporation, and to loan money on real or personal securities.

3. To lease, hold, purchase and convey any and all real property necessary in the transaction of its business, or which the purposes of the corporation may require, or which it shall acquire in satisfaction or partial satisfaction of debts due the corporation under sales, judgments or mortgages, or in settlement or partial settlement of debts due the corporation by any of its debtors.

4. To act as trustee under any mortgage or bond issued by any municipality, body politic or corporation, and accept and execute any other municipal or corporate trust not inconsistent with the laws of this state.

5. To accept trusts from and execute trusts for married women, in respect to their separate property, and to be their agent in the management of such property, or to transact any business in relation thereto.

6. To act under the order or appointment of any court of record as guardian, receiver or trustee of the estate of any minor, the annual income of which shall not be less than one hundred dollars, and as depositary of any moneys paid into court, whether for the benefit of any such minor or other person, corporation or party.

7. To take, accept and execute any and all such legal trusts, duties and powers in regard to the holding, management and disposition of any estate, real or personal, and the rents and profits thereof, or the sale thereof, as may be granted or confided to it by any court of record, or by any person, corporation, municipality or other authority; and it shall be accountable to all parties in interest for the faithful discharge of every such trust, duty or power which it may so accept.

8. To take, accept and execute any and all such trusts and powers of whatever nature or description as may be conferred upon or intrusted or committed to it by any person or persons, or any body politic, corporation or other authority, by grant, assignment, transfer, devise, bequest or otherwise, or which may be intrusted or committed or transferred to it or vested in it by order of any court of record, or any surrogate, and to receive and take and hold any property or estate, real or personal, which may be the subject of any such trust.

9. To purchase, invest in, and sell stocks, bills of exchange, bonds and mortgages and other securities; and when moneys, or securities for moneys, are borrowed or received on deposit, or for investment, the bonds or obligations of the company may be given therefor, but it shall have no right to issue bills to circulate as money.

10. To be appointed and to accept the appointment of executor of or trustee under the last will and testament, or administrator with or without the will annexed, of the estate of any deceased person, and to be appointed and to act as the committee of the estates of lunatics, idiots, persons of unsound mind and habitual drunkards.

No such corporations shall have any right or power to make any contract, or to accept or execute any trust whatever, which it would not be lawful for any individual to make, accept or execute.

No loan shall be made by any such corporation, directly or indirectly, to any director or officer thereof.

No such corporation shall transact its ordinary business by branch office in any city not named in its certificate of incorporation or charter as the place where its business is to be transacted.

§ 157. May be administrator, guardian or trustee.— When any such corporation is appointed executor in any last will or testament, the court or officer authorized to grant letters testamentary, in this state shall, upon the proper application, grant letters testamentary thereon to such corporation. When application is made to any court or officer having authority to grant letters of administration with the will annexed upon the estate of any deceased person, and there is no person entitled to such letters who is qualified, competent, willing and able to accept such administration, such court or officer may at the request of any party interested in the estate, grant such letters of administration with the will annexed, to any such corporation. Any court or officer having authority to grant letters of guardianship of any infant, the annual income of whose estate exceeds one hundred dollars, may, upon the same application as is required by law for the appointment of a guardian of such infant, appoint any such corporation as guardian of the estate of such infant.

Any court having jurisdiction to appoint a trustee, guardian, receiver or committee of the estate of a lunatic, idiot or habitual drunkard, or to make any fiduciary appointment, may appoint any such corporation to be such trustee, guardian, receiver or committee or to act in any other fiduciary capacity.

Every court into which moneys may be paid by parties, or be brought by order or judgment, may, by order, direct the same to be deposited with any such corporation.

**§ 158. No security required ; trust fund debts preferred.**—No bond or other security, except as hereinafter provided, shall be required from any such corporation for or in respect to any trust, nor when appointed executor, administrator, guardian, trustee, receiver, committee or depositary. All investments of moneys received by any such corporation in either of such characters shall be at its sole risk, and for all losses of such money the capital stock, property and effects of the corporation shall be absolutely liable. If dissolved by the legislature, or the court, or otherwise, the debts due from the corporation as such executor, administrator, guardian, trustee, committee or depositary, shall have the preference.

The court or officer making such appointment may, upon proper application, require any corporation which shall have been so appointed, to give such security as to the court or officer shall seem proper, or upon failure of such corporation to give security as required, to remove such corporation from, and to revoke, such appointment. Such court or officer may make orders respecting such trusts and require the corporation to render all accounts which such court or officer might lawfully require if such executor, administrator, guardian, trustee, receiver, committee or depositary were a natural person.

**§ 159. Investments of capital and deposits.**—The capital of every such corporation shall be invested in bonds and mortgages on unincumbered real property in this state worth at least double the amount loaned thereon or in the stocks or bonds of this state, or of the United States, or of any county or incorporated city of this state duly authorized by law to be issued.

The moneys received by any such corporation in trust may be invested in its discretion in the securities of the same kind in which its capital is required to be invested, or in the stocks or bonds of any state of the United States, or in such real or personal securities as it may deem proper. No such corporation shall hold stock in any private corporation to an amount in excess of ten per cent of the capital of the corporation holding such stock.

**§ 160. Interest and accumulations.**—On all sums of money not less than one hundred dollars which shall be collected and received by such corporation acting as executor, administrator, guardian, trustee, receiver or committee under the appointment of any court or officer, or in any fiduciary capacity under such appointment, or as a depositary of moneys paid into court, interest shall be allowed by such corporation not less than the rate of two per cent per annum until the moneys so received shall be duly expended or distrib-

uted. If such interest moneys, or any part thereof, shall not annually be expended or distributed pursuant to the terms or provisions of the trust under which such moneys are held, the amount thereof not so expended or distributed shall be accumulated by such corporation for the benefit of the parties interested in such trust fund, and shall be added to the principal to constitute a new principal, upon which interest shall thereafter be computed.

§ 161 Directors.—The affairs of every such corporation shall be managed and its corporate powers exercised by a board of directors of such number, not less than thirteen nor more than twenty-four, as shall, from time to time, be prescribed in its by-laws. No person can be director who is not the holder of at least ten shares of the capital stock of the corporation. The persons named in the organization certificate, or such of them respectively as shall become holders of at least ten shares of such stock, shall constitute the first board of directors, and may add to their number not exceeding the limit of twenty-four, and shall severally continue in office until others are elected to fill their respective places. Within six months from the time when such corporation shall commence business, the first board of directors shall classify themselves by lot into three classes, as nearly equal as may be. The term of office of the first class shall expire on the third Wednesday of January next following such classification; the term of office of the second class shall expire one year thereafter; and the term of office of the third class shall expire two years thereafter. At or before the expiration of the term of the first class, and annually thereafter, a number of directors shall be elected equal to the number of directors whose term will then expire who shall hold their offices for three years or until their successors are elected.

Such election shall be held at the office of the corporation and at such time and upon such public notice not less than ten days, by advertisement in at least one newspaper approved by the superintendent of banks published in the city where such corporation is located, as shall be prescribed in the by-laws.

In case of failure to elect any director on the day named, the directors whose terms of office do not that year expire, may proceed to elect a number of directors equal to the number in the class whose term that year expires, or such number as may have failed of re-election. The persons so elected, together with the directors whose terms of office shall not that year expire, shall constitute the board of directors until another election shall be held according to law. Vacancies occurring in the intervals of elections shall be filled by the board.

§ 162. **Liability of stockholders and directors.**—If default shall be made in the payment of any debt or liability contracted by any such corporation, the stockholders thereof shall be individually responsible, equally and ratably, for the then existing debts of the corporation, but no stockholder shall be liable for the debts of the corporation to an amount exceeding the par value of the respective shares of stock by him held in such corporation at the time of such default.

For all losses of money which the capital stock shall not be sufficient to satisfy, the directors shall be responsible in the same manner and to the same extent that directors are now responsible in law or equity.

§ 163. **Powers of specially chartered trust companies.**—Every trust company incorporated by a special law shall possess the powers of trust companies incorporated under this chapter and shall be subject to such provisions of this chapter as are not inconsistent with the special laws relating to such specially chartered company.

## ARTICLE V.

### BUILDING AND MUTUAL LOAN CORPORATIONS.

#### SECTION 170. Incorporation.

171. Powers.

172. Stock for minors.

173. Dividends and monthly payments.

174. Liability of stockholders and directors; exemption.

175. Existing corporations.

§ 170. **Incorporation.**—Nine or more persons may become a corporation for the purpose of accumulating a fund for the purchase of real property, the erection of buildings, or the making of other improvements on lands, or to pay off incumbrances thereon, or to aid its members in acquiring real property, making improvements thereon, and removing incumbrances therefrom, and for accumulating a fund to be returned to its members, who do not obtain such advances, when its funds shall amount to a certain sum per share, to be specified in the certificate of incorporation, or for all or any of such purposes; by making, acknowledging and filing a certificate of incorporation, setting forth:

1. The name of the corporation.

2. The location of its principal business office.

3. When its regular meetings shall be held and how special meetings may be called.



4. What shall be a quorum to transact business at its meetings.
5. How members shall be admitted and their qualifications.
6. What officers, directors or attorneys of the corporation there shall be and how and when chosen.
7. The duties of such officers, directors or attorneys and how removed or suspended from office.
8. The names of the persons who shall be such officers and directors for its first year, and until others are chosen or appointed in their places.
9. The entrance fee of new members and new shares.
10. The amount of each share.
11. The monthly or weekly dues per share.
12. The redemption fee on shares on which advances shall be made.
13. The fees to be paid on the transfer of shares.
14. The penalties for non-payment of dues or fees, or other violation of the provisions of the certificate.
15. The manner of redemption of shares by advances made thereon.
16. The mortgage security to be taken on such advances and how the same may be changed.
17. The manner of the transfer or withdrawal of shares.
18. The manner of investing funds not required for advances on shares.
19. The qualification of voters at its meetings and the mode of voting.
20. The ultimate amount to be paid to the owners of unredeemed shares.
21. The manner of altering or amending the certificate of incorporation.
22. Such other provisions not inconsistent with law as shall be necessary for the convenient and effective transaction of its business.

Such certificate must be approved by the superintendent of banks and filed in the office of the clerk of the county in which such corporation shall have its principal business office, and a certified copy thereof shall be filed in the office of the superintendent of banks. Thereupon the persons who have subscribed such certificate and such other persons as shall become members of the corporation, and their successors shall be a corporation by the name specified in such certificate.

§ 171. **Powers.**—The directors of every such corporation may call in and demand from the members and stockholders thereof, all sums of money by them subscribed, at such times and in such payments or installments as the certificate of incorporation shall prescribe, un-

der the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon, if payment shall not be made by the member or stockholder within sixty days after a personal demand made or notice requiring such payment shall have been published for six successive weeks in the newspaper nearest to the principal place of business of the corporation.

Every such corporation shall have power to borrow money for temporary purposes not inconsistent with the objects of its organization, but no such loan shall have a longer duration, than two years, nor shall its indebtedness for money so borrowed exceed at any one time one-fourth of the aggregate amount of its shares and parts of shares and the income thereof actually paid in and received.

No loan made by any such corporation to any of its members or stockholders shall exceed in amount the par value of the capital stock for which such member or stockholder may have subscribed.

§ 172. **Stock for minors.**—Parents and guardians may take and hold shares in such corporation in behalf and for the use of their minor children or wards, if the cost of such shares be defrayed from the personal earnings of such minor children or wards, or by gifts from persons other than their parents.

§ 173. **Dividends and monthly payments.**—Dividends declared from the earnings of the corporation shall be payable in such manner as may be provided in the certificate of incorporation.

No holder of redeemed shares shall claim to be exempt from making the monthly or other stated payments provided in the certificate of incorporation on the ground that by reason of losses or otherwise, the corporation has continued longer than was originally anticipated, whereby the payments made on such shares may amount to more than the amount originally advanced, with legal interest thereon; nor shall the imposition of fines for non-payment of dues or fees or other violation of the certificate of incorporation, nor the making of any monthly payment required by the certificate of incorporation, or of any premiums for loans made to members be deemed a violation of the provisions of any statute against usury.

§ 174. **Liability of stockholders and directors; exemption.**—All the stockholders of any such corporation shall be individually liable to the creditors to an amount equal to the amount of stock held by them respectively for all debts contracted by it. The directors or other officers of every such corporation shall be personally liable for any fraudulent use, disposition or investment of any moneys or property belonging to it, or for any loss which shall be incurred by any investment made by any such directors or officers,

other than such as are mentioned in and authorized by this article; but no director or other officer shall be so liable unless he authorized, sanctioned, approved of or made such fraudulent use, disposition or investment.

The shares held by the members and stockholders of every such corporation shall be exempt from sale on execution for debt to an extent not exceeding six hundred dollars in such shares at their par value.

§ 175. Existing corporations.—Any existing corporation formed solely for the purposes mentioned in this article, or any of them, may, by a vote of the persons holding a majority of the voting shares of stock of such corporation at any regular meeting after this article shall take effect, become entitled to the benefit of this article on complying with section 170 of this chapter, or such portions thereof as have not been previously complied with.

## ARTICLE VI.

### CO-OPERATIVE\* LOAN ASSOCIATIONS.

#### SECTION 180. Incorporation.

- 181. Officers and by-laws.
- 182. Capital stock; voting.
- 183. Dues, fines and entrance fees.
- 184. Withdrawal of shares.
- 185. Payment of matured shares.
- 186. Borrowing by members.
- 187. Security; rights of borrower.
- 188. Forfeiture for non-payment of dues.
- 189. Purchase of real property; loans.
- 190. Profits and losses.
- 191. Qualification of members; transfer and exemption of shares.

§ 180. Incorporation.—Fifteen or more persons may become a corporation for the purpose of encouraging industry, frugality, home building and savings among its members, the accumulation of savings, the loaning of such savings to its members, and the repayment to each member of his savings when they have accumulated to a certain sum, or at any time when he shall desire the same, or the corporation shall desire to repay the same, or for any or all of such purposes, by making, acknowledging and filing a certificate stating the name of the corporation, which shall contain as a part thereof the words "co-operative savings and loan association," the purpose or purposes for which it is formed, the town, city or village where its principal place of business is located within this state and

\* So in the original.

the minimum number of shares of stock it shall have outstanding at any one time.

Such certificate must be approved by the superintendent of banks and filed and recorded in his office, and a certified copy thereof filed in the office of the clerk of the county where its principal business office is to be located, and upon the filing of such certificate and the certified copy thereof, the persons named therein, their associates and successors, shall become and be a corporation by the name specified therein.

§ 181. **Officers and by-laws.**—The officers of the corporation shall be a president, vice-president, treasurer and secretary, who shall be ex-officio members of the board of directors, which shall consist of nine members exclusive of such ex-officio members, and such other officers as may be authorized by the by-laws. By-laws shall be adopted prescribing the terms of office, duties and compensation of the officers, the time of their election and of periodical meetings of the officers and shareholders, how special meetings may be called, regulating the due conduct of the business of the corporation, defining the duties of its officers and committees, the mode of determining and declaring the withdrawing value of shares, and making such other regulations in regard to the transaction of the business of the corporation as are not inconsistent with law.

The board of directors shall each year determine the compensation of the treasurer and secretary, and they may appoint and remove at pleasure an attorney for the corporation.

§ 182. **Capital stock voting.\***—The capital of every such corporation shall consist of the accumulated savings of its members, which it holds, and shall not exceed at any time one million dollars; and shall be divided into shares of the matured value of two hundred dollars each.

The total number of shares outstanding at any time shall not exceed ten thousand. The shares shall be issued in yearly or half-yearly series in such amounts in each series and at such times as shall be prescribed by the by-laws. No shares of a prior series shall be issued after the issuing of shares in a new series. Shares which have not been pledged as a collateral security for the repayment of a loan shall be called unpledged shares. Shares which have been so pledged shall be called pledged shares. No person shall hold more than ten unpledged or twenty pledged shares in any one series. Each shareholder shall be entitled to one vote at all meetings of the shareholders for each share owned by him or held by him as trustee, not in arrears for dues.

§ 183. **Dues, fines and entrance fees.**—Savings paid to the corporation upon shares shall be called dues. At or before each stated monthly or semi-monthly meeting of the board of directors, each shareholder shall pay to the board or a committee thereof, one dollar dues upon each share of stock held by him until the share reaches the value of two hundred dollars, or is withdrawn, canceled or forfeited. Payment of dues on shares of each series shall commence from its issue. Fines may be imposed and collected, not exceeding ten per cent for each month in arrears, for every dollar of dues or interest which a shareholder shall refuse or neglect to pay at the time it is due. An entrance fee may also be charged not exceeding twenty-five cents on every share of stock issued by the corporation.

§ 184. **Withdrawal of shares.**—The accumulations upon unpledged shares may be withdrawn, and the shares canceled, after one month's written notice of such intention filed with the secretary at or before a stated monthly meeting of the board.

If filed before such meeting, the one month's notice shall not be deemed to have commenced until the first regular meeting after filing. The withdrawing shareholder shall be paid the amount of the withdrawal value of his accumulations as determined under the by-laws at the last distribution of profits before the notice of withdrawal, together with all dues paid since such distribution, and such interest on the value of the shares at the time of the last distribution and on the dues thereafter paid as the by-laws shall determine, less any fines unpaid and a proportionate share of any unadjusted loss; but not more than one-half of the receipts of the corporation, and when the corporation is indebted on matured shares not more than one-third of such receipts, shall be applicable to the payment of withdrawing shareholders without the consent of the board of directors. When the demands of withdrawing shareholders exceed the moneys applicable to their payment, they shall be paid in the order in which their notices of withdrawal were filed with the secretary. The board of directors may in their discretion, under rules made by them, retire the unpledged shares of any series at any time after four years from the date of their issue by enforcing withdrawals of the same; but the shareholders whose shares are to be retired shall be determined by lot, and they shall be paid the full value of their shares, less all fines and proportionate part of any unadjusted loss.

§ 185. **Payment of matured shares.**—When each unpledged share of a given series reaches the value of two hundred dollars, all payment of dues thereon shall cease, and the holder thereof shall be

paid out of the funds of the corporation, two hundred dollars therefor, with such rate of interest as shall be determined by the by-laws from the time the board of directors shall have declared such shares to be matured until paid; but at no time shall more than one-third of the receipts of the corporation be applicable to the payment of matured shares without the consent of the board of directors. The order of the payment of matured shares shall be determined by the board of directors.

§ 186. **Borrowing by members.**—At each monthly stated meeting, immediately following the receipt of dues and interest, the board of directors shall offer to members of the corporation desiring to borrow, all accumulations applicable to that purpose, in sums of two hundred dollars, the value of a matured share, or a multiple thereof, or the fractional parts of one-fourth or one-half thereof. If more than one member desires to borrow, the right to the loan shall be determined by an open bidding of a premium per share, and the member bidding the highest premium shall be entitled to the loan upon giving proper security; and the amount of the premium paid shall be deducted from the sum loaned at the time of loaning, and the receipt thereof shall not be deemed a violation of the usury laws. No member can borrow a larger sum than shall be equal to the matured value of the shares held by him. A borrowing member, for each share or fractional part thereof borrowed upon, shall, in addition to the dues on his shares, pay monthly interest on his loan at the rate of six per cent per annum, or such lower rate as the by-laws shall name, until the shares borrowed upon reach the matured value of two hundred dollars each, or the loan is repaid; and when such matured value is reached, the loan upon it shall be paid out of the share, and the proper surrender and acquittances be made.

§ 187. **Security; rights of borrower.**—Every loan made shall be secured by a bond and a first mortgage upon unincumbered real property, with a transfer and pledge to the corporation of the shares borrowed upon, and all accumulations that have or shall accrue thereon; but in lieu of the mortgage the borrower, or another, may transfer and pledge to the corporation for the payment of the loan, unpledged shares, the withdrawal value of which, under the by-laws, at the time of such borrowing, shall exceed the amount borrowed and interest thereon for six months. The right to the loan shall be forfeited if the borrower neglects to offer security satisfactory to the board of directors within the time provided by the by-laws, and he shall be charged with one month's interest and all necessary expen-



ses incurred, if any, under the by-laws, in reference to his proposed loan. All bonds and mortgages given to the corporation shall be deemed conditioned upon the performance of the provisions of this chapter relating to the repayment of loans and interest thereon, and the by-laws of the corporation, although not fully expressed therein. A borrower may repay the loan and all arrears of interest and fines thereon, or one share thereof, at any stated monthly meeting, or at any other time, but when not made at a stated meeting he shall pay interest up to the first monthly meeting after such payment. He may repay his loan in full and release the shares from liability upon the pledge thereof, or he may, by a proper notice and direction as to the application have the withdrawal value of the shares borrowed upon applied in payment or part payment of his loan.

§ 188. **Forfeiture for non-payment of dues.**—When any member shall be six months in arrears in the payment of dues upon unpledged shares, the secretary shall give him notice thereof in writing, and a statement of his arrearages by mailing the same to him at the last post-office address given by him to the corporation, and if he shall not pay the same on or before the second stated monthly meeting thereafter, the board of directors may, at their discretion, declare his shares forfeited; and at the time of such forfeiture, the withdrawal value thereof shall be determined and stated, and the defaulting member shall be entitled to withdraw the same without interest within one year, upon such notice as shall be required of a withdrawing shareholder. If a borrowing member shall be six months in arrears in the payment of his dues and interest, or either, the whole loan shall become due at the option of the board of directors, and they may proceed to enforce the collection upon the securities held by the corporation. The withdrawal value at the time of the commencement of the action of all shares pledged as collateral security for the loan shall be applied upon the loan and arrearages of interest and fines thereon, and the shares deemed surrendered to the corporation.

§ 189. **Purchase of rear\* property; loans.**—Any such corporation may purchase at any sale, public or private, any real property upon which it may have a mortgage, judgment, lien or any other incumbrance, or in which it may have any interest, and may sell, convey, lease or mortgage the same at pleasure to any person or persons. It may also borrow money, but not for a longer period than one year, for the purpose of making loans or paying withdrawals, not exceeding two thousand dollars, when its accumulated capital is less than ten thousand dollars; and not exceeding six thou-

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\* So in the original.

sand dollars when its accumulated capital shall be ten thousand dollars and over, and not more than sixty thousand dollars; and if its accumulated capital exceeds sixty thousand dollars, it may borrow money for such purposes not exceeding ten per cent of its accumulated capital.

If any such corporation has a surplus in its treasury for which there is no demand for loans, withdrawing shareholders or matured stock, it may loan the same to any other corporation organized under the provisions of this article, subject to the provisions of this section on the part of the borrowing corporation. No corporation shall borrow or make loans authorized by this section except by a two-thirds vote of its board of directors, which shall be recorded by ayes and nays in its regular minutes.

**§ 190. Profits and losses.**—Profits and losses shall be distributed at least annually and always before issuing a new series of stock to all shares in all series outstanding at the time of such distribution, in proportion to their holding value as distinguished from their withdrawing value, except that, in addition thereto, a distribution of not exceeding the amount of the entrance fee, in the discretion of the board of directors, may be made to each share outstanding in the last series issued prior to the distribution. At each periodical distribution of profits, the board of directors may reserve and carry as undistributed profits, in the nature of a guaranty fund, any sum from the net profits that in their discretion seems wise, to be applied upon any future losses that may occur from any cause whatever.

**§ 191. Qualification of members; transfer and exemption of shares.**—Any person of full age and sound mind may become a member of the corporation by taking one or more shares therein and subscribing the by-laws, and annexing to his signature his post-office address; and when he desires his post-office address changed, he shall give written notice thereof to the secretary of the corporation; and for the purpose of giving any member notice by mail, the last post-office address given by him shall be deemed the proper one. A minor may hold shares in the name of a parent, guardian or next friend as trustee for him.

No transfer of shares shall be binding upon the corporation until the same has been made upon its books; and the transferee thereof shall take the same charged with all the liabilities and conditions attaching thereto in the hands of the person transferring the same; and the corporation may require a transfer fee not exceeding twenty-five cents per share.

All accumulations upon shares held by any person shall be exempt

from execution and proceedings supplementary thereto to the amount of six hundred dollars; and the corporation shall be deemed an institution for savings and not taxable under any corporation tax law, which shall exempt savings banks or institutions for savings from taxation; and no such corporation shall be liable to pay any tax upon its organization or as a condition thereof.

## ARTICLE VII.

### MORTGAGE, LOAN AND INVESTMENT CORPORATIONS.

#### SECTION 200. License.

201. Verified statement to be furnished.

202. Issue of license.

203. Unlicensed companies prohibited.

204. Revocation of license.

205. Designation of superintendent as attorney.

§ 200. License.—The superintendent of banks shall issue a license under his hand and official seal in accordance with the provisions of this article, authorizing mortgage companies organized under the laws of any other state to transact business within the limits of this state; and the supervisory power granted by this article shall apply to all associations, copartnerships, individuals, joint-stock companies, firms or corporations organized under the laws of any other state, who sell, offer for sale or negotiate bonds or notes secured by deed of trust, or mortgage of real property, or bonds, or obligations payable in installments, or capital stock, or choses in action, owned, issued, negotiated or guaranteed by them; and to all associations, copartnerships, joint stock companies or corporations organized under the laws of this state, who shall sell or offer for sale or negotiate bonds or notes secured by deed of trust or mortgage of real property situated outside of this state, owned, issued or negotiated or guaranteed by them.

§ 201. Verified statement to be furnished.—The companies, associations and others described in the preceding section shall annually make and furnish to the superintendent of banks a true and verified statement of their financial condition in detail on blanks furnished by him for that purpose, which shall show:

1. The amount of capital actually paid in in cash.
2. The amount of capital subscribed.
3. The undivided profits or earnings on hand.
4. The total liabilities itemized in such form as may be indicated in the blanks.
5. The total amount of moneys loaned, invested or guaranteed.

6. The number and amount of all mortgages in arrears of interest for a period exceeding six months prior to the date of the report.

7. The number and amount of mortgages foreclosed during the past year.

8. The present cash value of all real property held or owned by foreclosure; and such other and further information concerning their business affairs and methods as the superintendent shall require.

The statement shall be signed by the officers of the association, company or corporation or other person making the same, and in such form as the superintendent shall prescribe. The superintendent may, in his discretion, require a like report either wholly or in part, as to such particulars as he may prescribe, to be made and submitted to him at any time and within such period as he may designate. No license shall be issued unless the superintendent, either personally or by some competent person or persons appointed by him has visited and examined thoroughly into the condition, business methods and affairs generally of any company, association, corporation, copartnership or individual proposed to be licensed by him; and he may make such examination as often thereafter as he deems necessary, and such examination shall be made at least once in each year.

The superintendent and every examiner appointed by him shall have power to administer an oath to any person whose testimony may be required in any such examination; and all books and papers which it may be deemed necessary to examine by the superintendent or the examiner, shall be produced, when demanded, in writing by him.

On every such examination inquiry shall be made as to the condition and resources generally of the company, corporation, association, copartnership or individual, examined, the mode of conducting and managing its affairs, the advice of its directors or trustees, the investment of its funds, the safety and prudence of its management, the security afforded to those by whom its engagements are held, and whether the requirements of its charter and of law have been complied with in the administration of its affairs.

§ 202. Issue of license.—If it shall appear to the satisfaction of the superintendent from such examination made and the statement or report submitted by any such corporation, company, copartnership, firm, association or individual, pursuant to the requirements of the preceding section, that its affairs are being conducted in a safe and lawful manner, he may issue to such company, corporation, copartnership, firm or association, a license, under his hand and seal, permitting it to transact business in this state for the term of one year from the date thereof.

§ 203. **Unlicensed companies prohibited.**—No person, association, corporation, company or copartnership, shall, after the passage of this chapter, act in this state as the agent or representative of any company, corporation, or others described in section 200 of this chapter, unless the same has been duly licensed by the superintendent of banks as hereinbefore provided. Every such company, corporation, or others, described in section 200 of this chapter, shall within thirty days after being authorized to transact business in this state, file in the office of the superintendent of banks a certificate stating the name and business address of every person, association, corporation, company, firm or others, who act or propose to act in this state as its agent or representative, and in case of any change in any such representative, an amended certificate shall be forthwith filed as herein provided.

Whoever shall offend against the provisions of this section shall forfeit to the people of the state the sum of one thousand dollars for every offense.

§ 204. **Revocation of license.**—If it shall appear to the superintendent from an examination made of or report submitted by any licensee under the provisions of this article, or from sufficient information otherwise obtained, that such licensee is conducting its business and affairs in an unsafe or unauthorized manner, he shall, by an order under his hand and official seal addressed to such licensee, direct it to discontinue such unsafe or illegal practices and to conform to the requirements of its charter and of law, and to provide for the safety and security of its transactions. If such licensee shall neglect or refuse to make any report as herein specified, or to comply with such order, or if it shall appear to the superintendent that it is unsafe or inexpedient for any such licensee to continue the transaction of business, he shall forthwith revoke the license granted to any such licensee and serve a copy of the order of revocation on the company, association, corporation, copartnership or individual whose license is revoked at its principal office for the transaction of business in this state, and also upon each agent or representative thereof within the state specified in the certificate provided for in section 203 of this chapter, by depositing the same in the post-office directed to such licensee at such principal place of business and to each of such agents at his place of business; and the superintendent may, in his discretion, publish such order, with such other facts as he may deem proper, for six successive days in the state paper published in the city of Albany.

§ 205. **Designation of superintendent as attorney.**— Every corporation, company, firm, association or individual thus licensed shall before transacting any business within this state, by an instrument in writing duly executed, appoint the superintendent of banks, its true and lawful attorney upon whom all process in any action or proceeding by any resident of the state against it may be served with the same effect as if it were a domestic corporation and had been lawfully served with process in the state. A certificate of such appointment duly certified and authenticated shall be filed in the office of the superintendent of banks, and copies certified by him or his deputy shall be sufficient evidence thereof. Service in favor of a resident of this state upon such attorney shall be deemed a personal service upon such licensee. Whenever lawful process against such licensee shall be served upon the superintendent of banks, he shall forthwith forward a copy of the process served upon him by mail, prepaid, and directed to the president or secretary of the corporation or association at its last named post-office address.

For each copy of process, the superintendent shall collect the sum of two dollars, which shall be paid by the plaintiff or moving party at the time of such service to be recovered by him as part of his taxable disbursements if he succeeds in his suit or proceeding. The term, process, when used in this section, includes any writ, summons, petition or order whereby any suit, action or proceeding shall be commenced by a resident of this state.

## ARTICLE VIII.

### SAFE DEPOSIT COMPANIES.

#### SECTION 210. Incorporation.

211. Directors.

212. Officers and by-laws.

213. Liability of stockholders.

214. Remedy for non-payment of rent for safe

215. Laws repealed.

216. When to take effect.

§ 210. **Incorporation.**— Five or more persons may become a corporation for the purpose of taking and receiving upon deposit as bailee for safe keeping and storage, jewelry, plate, money, specie, bullion, stocks, bonds, securities and valuable papers of any kind, and other valuable personal property, and guaranteeing their safety upon such terms and for such compensation as may be agreed upon by it and the respective bailors thereof ; and to let out vaults, safes and other receptacles for the uses and purposes of such corporation, by



making, acknowledging, and filing in the office of the clerk of the county in which its principal place of business is to be located, and a duplicate thereof in the office of the superintendent of banks, a certificate stating its corporate name, the business for which formed, the amount of its capital stock, which shall not exceed one million nor be less than one hundred thousand dollars, except in cities or villages of less than one hundred thousand inhabitants, in which the capital shall not be less than ten thousand dollars, the number of shares of which its stock shall consist, the term of its existence not to exceed fifty years, the number of directors and their names, residences, occupation and post-office addresses who shall manage its concerns for the first year, and the name of the place in which its operations are to be carried on; such certificate must be approved before filing by the superintendent of banks. No such corporation shall commence or transact business until the whole amount of its capital stock shall have been paid in; nor make any loan or advance on any property left with it for storage or safe keeping.

§ 211. **Directors.**—The affairs of every such corporation shall be managed by not less than five nor more than thirteen directors, who shall be stockholders and a majority of whom shall be citizens of this state, and who shall, except for the first year, be annually elected by the stockholders at such time and place as shall be prescribed in the by-laws of the corporation. Notice of the time and place of holding such election shall be published not less than ten days previous thereto in a newspaper in the town or city in which the operations of such corporation shall be carried on, and the election shall be made by such of the stockholders as shall attend for that purpose either in person or by proxy.

§ 212. **Officers and by-laws.**—There shall be a president of the corporation to be designated from the directors, and such subordinate officers as the corporation by its by-laws may designate, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their offices as the corporation by its by-laws may require. The directors may make such by-laws as they shall deem proper for the management, disposition of the stock, property and business affairs of the corporation, not inconsistent with law, and prescribing the duties of the officers and persons employeed by it, the manner of the appointment and election of all officers, and for carrying on all kinds of business within the objects and purposes of the corporation.

§ 213. **Liability of stock holders.**—The stockholders of every such corporation shall be jointly and severally liable for all debts

that may be due and owing by it to an amount equal to the par value of their stock in such corporation over and above such stock, to be recovered of the stockholders who are such when the debt is contracted or the loss or damage sustained, or of any subsequent stockholder. Any stockholder who may have paid any demand against such corporation, either voluntarily or by compulsion, shall have a right to resort to the rest of the stockholders who are liable to contribution; and the dissolution of the corporation shall not release or affect the liability of any stockholder which may have been incurred before dissolution.

§ 214. **Remedy for non-payment of rent for safe.**—If the amount due for the use of any safe or box in the vaults of any such corporation shall not have been paid for three years, it may, at the expiration thereof, cause to be sent to the person in whose name such safe or box stands on its books a notice in writing in a securely closed post-paid registered letter, directed to such person at his post-office address as recorded upon the books of the corporation, notifying such person that if the amount then due for the use of such safe or box is not paid within sixty days from the date of such notice, the corporation will then cause such safe or box to be opened in the presence of its president or secretary or treasurer, and of a notary public not an officer or in the employ of the corporation, and the contents thereof, if any, to be sealed up by such notary public in a package, upon which such notary public shall distinctly mark the name and address of the person in whose name such safe or box stands upon the books of the corporation, and the estimated value thereof; and the package so sealed and addressed, when marked for identification by such notary public, will be placed by such notary public in one of the general safes or boxes of the corporation.

Upon the expiration of sixty days from the date of mailing such notice as aforesaid, and the failure of the person in whose name such safe or box stands on the books of the corporation to pay the amount due for the use thereof in full up to the date of such notice, the corporation may in the presence of a notary public and of its president or secretary or treasurer, cause such safe or box to be opened, and the contents thereof, if any, to be removed and sealed up by such notary public in a package, upon which such notary public shall distinctly mark the name of the person in whose name such safe or box and its estimated value stood on the books of the corporation, and when such package has been marked for identification by such notary public, it shall, in the presence of the president or secretary or treasurer of the corporation, be placed by such notary

public in one of the general safes or boxes of the corporation, and the proceedings of such notary public shall be fully set out by him in his own proper handwriting and under his official seal, in a book to be kept by the corporation for that purpose.

§ 215. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

§ 216. **When to take effect.**—This chapter shall take effect on the thirtieth day after the date of its final passage.

#### SCHEDULE OF LAWS REPEALED

Laws of	Chapter	Sections
1835.....	262.....	All.
1842.....	3.....	All.
1844.....	239.....	All.
1851.....	122.....	All.
1875.....	564.....	All.
1875.....	613.....	All.
1877.....	10.....	All.
1878.....	96.....	All.
1878.....	347.....	All.
1882.....	191.....	All.
1882.....	409.....	All except §§ 68, 69, 312-327, both inclusive.
1883.....	273.....	All.
1883.....	282.....	All.
1883.....	338.....	All.
1883.....	439.....	All.
1884.....	47.....	All.
1884.....	48.....	All.
1884.....	504.....	All.
1885.....	329.....	All.
1885.....	425.....	All.
1885.....	477.....	All.
1886.....	498.....	All.
1886.....	564.....	All.
1886.....	569.....	All.
1887.....	517.....	All.
1887.....	518.....	All.
1887.....	524.....	All.
1887.....	546.....	All except § 34.

**CHAP. 689] ONE HUNDRED AND FIFTEENTH SESSION. 1929**

**Ch. 37, G. L. THE BANKING LAW.**

Laws of	Chapter	Sections
1887.....	556.....	All.
1888.....	373.....	All.
1889.. ..	177.....	All.
1889.....	414.....	All.
1889.....	558.....	All.
1890.....	146.....	All, except §§ 9, 12.
1890.....	429.....	All.
1890.....	439.....	All.
1890.....	506.....	All, except § 12.
1890.....	525.....	All.
1891.....	374.....	All.

**CHAP. 690.**

**AN AOT** in relation to insurance corporations, constituting chapter thirty-eight of the general laws.

**APPROVED** by the Governor May 18, 1892. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

**CHAPTER XXXVIII OF THE GENERAL LAWS.****THE INSURANCE LAW.****ARTICLE 1. General provisions. (§§ 1-57.)**

2. Life, health and casualty insurance corporations. (§§ 70-92.)
3. Fire insurance corporations. (§§ 110-137.)
4. Marine insurance corporations. (§§ 150-161.)
5. Title and credit guaranty corporations. (§§ 170-178.)
6. Life or casualty insurance corporations upon the co-operative or assessment plan. (§§ 200-216.)
7. Fraternal beneficiary societies, orders or associations. (§§ 230-239.)
8. Corporations for insurance of domestic animals. (§§ 250-254.)
9. Town and county co-operative insurance corporations. (§§ 260-279.)
10. Miscellaneous provisions. (§§ 290-293.)

**ARTICLE I.****GENERAL PROVISIONS.****SECTION 1. Short title.**

2. The superintendent of insurance.
3. Offices for insurance department.
4. Seal; and certificate, with evidence.
5. Deputy superintendent and clerks.
6. Fees.
7. Expenses of examinations.
8. Expenses of department, how defrayed.
9. Certificate of authorization of superintendent.
10. Certificate of attorney-general.
11. Examination by superintendent.
12. Minimum capital stock.
13. Deposit of securities.
14. Exchange of securities; interest.
15. State treasurer to countersign transfer of securities.
16. Investment of capital and surplus.
17. Securities must be interest or dividend-paying.
18. Stocks in other corporations.
19. Lien on stock and profits.
20. Restrictions as to real property.
21. When corporation to be deemed insolvent.
22. Reinsurance.

**SECTION 23. Reinsurance by receiver.**

24. Limitation of risk.
25. Jurisdiction of superintendent over foreign corporations.
26. Deposits by insurance corporations of other states.
27. Funds and capital of insurance corporation incorporated outside of the United States.
28. Special deposit required in certain cases.
29. Copy charter and verified statement to be filed.
30. Appointment of attorney ; removal of cause to federal courts.
31. Certified copy of superintendent's certificate and of statement to be filed in the clerk's office.
32. Renewal of certificate of authority.
33. Reciprocal requirements.
34. Taxation of foreign corporations.
35. Superintendent to forward process.
36. Officers and directors not to receive compensation for negotiating loans.
37. Corporations heretofore formed.
38. Fiduciary capacity of agents.
39. Examiners and examinations.
40. Examination by superintendent upon request of stockholder or creditor.
41. Impairment of capital.
42. Stockholders to make good impairment or deficiency.
43. Impaired mutual insurance corporations
44. Reports of corporations.
45. Forms of report to be furnished by superintendent.
46. Annual report of superintendent.
47. Deceptive statement prohibited.
48. Contents of advertisements.
49. Agents.
50. Agents' certificates of authority.
51. Examination of securities deposited by officers of corporation.
52. Reorganization of existing corporations and amendments of certificates.
53. General penalties.
54. Agents not to act for unauthorized corporations.
55. Insurance without the consent of the insured prohibited.
56. Proceedings for accounting, injunction or a receiver must be upon application of the attorney-general.
57. Application of article limited.

**SECTION 1. Short title.**— This chapter shall be known as the insurance law, and shall be applicable to all corporations authorized by law to make insurances.

**§ 2. The superintendent of insurance.**— There shall continue to be a separate and distinct department charged with the execution of the laws relating to insurance, to be known as the insurance department, the chief officer of which shall be the superintendent of insurance, who, after the termination of the term of office of the



present superintendent, or whenever a vacancy shall occur in the office, shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold his office for the term of three years. He shall receive an annual salary of seven thousand dollars, which shall be in full of all services performed by him in any capacity.

The superintendent and his deputies shall take and subscribe and file in the office of the secretary of state the constitutional oath of office within fifteen days from the time of notice of their appointments respectively. The superintendent shall, within the same time, give an official undertaking in the sum of twenty-five thousand dollars, with two good sureties to be approved by the comptroller. Neither the superintendent nor any deputy shall be directly or indirectly interested in any insurance corporation, except as an ordinary policy-holder.

All books, papers, documents, securities, stocks, bonds and mortgages, and all other papers whatever, in the office of the comptroller and in the office of the secretary of state at the time of the passage of chapter 366 of the laws of 1859, relating to the business of insurance, shall, on demand, be delivered and transferred to the superintendent, and be and remain in his charge and custody.

§ 3. **Offices for insurance department.**— There shall be assigned to the superintendent of insurance, by the trustees of the new capitol, suitable offices in the city of Albany for conducting the business of the insurance department. The superintendent shall, from time to time, furnish the necessary furniture, stationery, fuel, lights and other proper conveniences for the transaction of such business, the expenses of which, and the rent of such offices, if any, shall be paid on the certificate of the superintendent and the warrant of the comptroller.

§ 4. **Seal and certificate, when evidence.**— The seal of office now used by the superintendent of insurance shall continue to be the seal of his office and may be renewed whenever necessary. Every certificate, assignment, conveyance or other paper executed by him in pursuance of any authority conferred by law and sealed with such seal of office, shall be received as evidence and may be recorded in the proper recording offices in the same manner and the like like\*, effect as a deed regularly acknowledged or proved before an officer authorized by law to take the proof or acknowledgment of deeds.

§ 5. **Deputy superintendent and clerks.**— The superintendent of insurance shall employ from time to time the necessary clerks to discharge such duties and to be paid such compensation as he shall

\* So in the original.

prescribe. He shall appoint one or more of such clerks to be his deputies. In case of the absence of the superintendent or his inability from any cause to discharge the powers and duties of his office the powers and duties of the office shall devolve upon his first deputy; and in the absence of both the superintendent and his first deputy or their inability from any cause to discharge the powers and duties of the office, the powers and duties of the office shall devolve upon his second deputy. This section shall take effect immediately.

The compensation of the clerks of the department shall be paid to them monthly on the certificate of the superintendent and upon the warrant of the comptroller.

§ 6. **Fees.**—Every corporation or person to whom this chapter shall be applicable shall pay the following fees to the superintendent, unless remitted by him.

For filing the declaration of a certified copy of a charter required by law, thirty dollars; except corporations for the insurance of domestic animals, co-operative life or casualty insurance corporations, and fraternal beneficiary corporations; in which cases, such fee shall be ten dollars.

For filing the annual report required by law, twenty dollars; except in the cases of corporations for the insurance of domestic animals and co-operative insurance corporations, in which cases the fee shall be one dollar for each one hundred members or fraction thereof, not exceeding twenty-five dollars in any case. No charge shall be made for filing the report of a fraternal beneficiary corporation.

For each certificate of authority and certified copy thereof, not exceeding five dollars.

For every copy of any paper filed in his office, ten cents per folio; and for affixing the official seal on such copy and certifying the same, one dollar.

All fees, perquisites and moneys charged and received or collected by the superintendent, or by the insurance department, or any officer thereof shall be paid into the state treasury monthly.

§ 7. **Expenses of examinations.**—The expense of every examination or other investigation of the affairs of an insurance corporation, pursuant to the authority conferred by the provisions of this chapter, shall be borne and paid by the corporation so examined, unless remitted by the superintendent. If a corporation for the insurance of domestic animals, or a co-operative insurance corporation, such expense shall not exceed for any one corporation the sum of fifty dollars in any one year.

No charge shall be made for any examination of an insurance corporation by the superintendent or his deputy personally, or by one or more of the regular clerks of the department except for necessary traveling and other actual expenses. All charges for making any examination and all charges against an insurance corporation by an attorney or appraiser of the department shall be presented in the form of an itemized bill approved by the superintendent, audited by the comptroller, and paid on his warrant drawn in the usual manner on the state treasurer, to the person making the examination.

The corporation examined on receiving a certified copy of such bill so approved, audited and paid, shall repay the amount thereof to the superintendent of insurance, to be by him paid into the state treasury to replace the money drawn out as above provided. No corporation examined shall either directly or indirectly pay by way of gift, credit or otherwise, any other or further sum to the superintendent or any clerk or employe of the insurance department or any examiner for extra service or for purposes of legislation, or on any other pretense whatever.

**§ 8. Expenses of department; how defrayed.**—If the expenses of the insurance department, including salary, clerk hire and other expenses and such additional sum as may be certified to the comptroller by the attorney-general as a reasonable compensation for services and expenses of deputies and clerks in his office in proceedings or litigation for or on account of insurance corporations or in which such corporations were parties, shall exceed the amount of fees collected under this chapter and paid into the state treasury the excess of such expenses shall be annually assessed by the superintendent pro rata upon all the insurance corporations of the state so doing business therein; and the superintendent shall collect such assessments and pay them into the state treasury.

**§ 9. Certificate of authorization of superintendent.**—No corporation shall, nor shall any individual, as principal, transact the business of insurance within this state without the certificate of the superintendent of insurance, certifying under his hand and official seal that it has complied with all the requirements of law to be observed by such corporation, or individual, and that it is authorized to transact the business of insurance specified therein in this state, and that such business can properly be intrusted to it. Such certificate shall be recorded in the office of the superintendent in a book to be kept by him for that purpose, and a certified copy thereof filed in the office of the clerk of the county where such corporation or individual is to have its principal place of business. The superintend-

ent may refuse to issue any such certificate except to a domestic corporation, if, in his judgment, such refusal will best promote the interests of the people of the state. This section shall not apply to any existing domestic insurance corporations.

But nothing in this section contained shall apply to any insurance company heretofore organized under any general or special law of this state and now carrying on business, but every such corporation is hereby recognized as an existing corporation and is hereby authorized to continue as such corporation and to continue such business until the legislature shall otherwise provide, subject to such of the provisions of this chapter as are made applicable to such corporations.

§ 10. **Certificate of attorney-general.**— When application is made to the superintendent of insurance by any persons desiring to become incorporated as an insurance corporation or for authority to transact the business of insurance in this state under or pursuant to any declaration and charter presented for filing in the insurance department or any amended declaration or charter or any papers required by law to be filed or to be approved by the superintendent, preliminary or as a condition precedent to the exercise of any right by such corporation to make insurance or transact the business of insurance in this state, except renewals of certificates of authority and licenses to agents, the superintendent shall not file such declaration and charter or other papers or grant such certificate of authority until such papers shall have been examined by the attorney-general, and certified by him to the superintendent to be in accordance with the requirements of law.

§ 11. **Examination by superintendent.**— If the declaration and charter or other papers specified in the preceding section shall be approved by the attorney-general, the superintendent shall thereupon cause an examination to be made by himself or by one or more competent and disinterested persons specially appointed by him for that purpose into the affairs of the corporation or proposed corporation applying for authority to do business in this state, or for leave to file any of the papers specified in the preceding section.

If such persons, after examination made, shall certify under oath, if it be a stock corporation, that the amount of capital required by law has been paid in and is possessed by it in cash, or is invested in the manner required by law; or if a mutual or co-operative corporation, that it has received and is in actual possession of the capital, premiums or engagements of insurance to the full extent required

No charge shall be made for any examination of an insurance corporation by the superintendent or his deputy personally, or by one or more of the regular clerks of the department except for necessary traveling and other actual expenses. All charges for making any examination and all charges against an insurance corporation by an attorney or appraiser of the department shall be presented in the form of an itemized bill approved by the superintendent, audited by the comptroller, and paid on his warrant drawn in the usual manner on the state treasurer, to the person making the examination.

The corporation examined on receiving a certified copy of such bill so approved, audited and paid, shall repay the amount thereof to the superintendent of insurance, to be by him paid into the state treasury to replace the money drawn out as above provided. No corporation examined shall either directly or indirectly pay by way of gift, credit or otherwise, any other or further sum to the superintendent or any clerk or employe of the insurance department or any examiner for extra service or for purposes of legislation, or on any other pretense whatever.

§ 8. **Expenses of department; how defrayed.**—If the expenses of the insurance department, including salary, clerk hire and other expenses and such additional sum as may be certified to the comptroller by the attorney-general as a reasonable compensation for services and expenses of deputies and clerks in his office in proceedings or litigation for or on account of insurance corporations or in which such corporations were parties, shall exceed the amount of fees collected under this chapter and paid into the state treasury the excess of such expenses shall be annually assessed by the superintendent pro rata upon all the insurance corporations of the state so doing business therein; and the superintendent shall collect such assessments and pay them into the state treasury.

§ 9. **Certificate of authorization of superintendent.**—No corporation shall, nor shall any individual, as principal, transact the business of insurance within this state without the certificate of the superintendent of insurance, certifying under his hand and official seal that it has complied with all the requirements of law to be observed by such corporation, or individual, and that it is authorized to transact the business of insurance specified therein in this state, and that such business can properly be intrusted to it. Such certificate shall be recorded in the office of the superintendent in a book to be kept by him for that purpose, and a certified copy thereof filed in the office of the clerk of the county where such corporation or individual is to have its principal place of business. The superintend-

ent may refuse to issue any such certificate except to a domestic corporation, if, in his judgment, such refusal will best promote the interests of the people of the state. This section shall not apply to any existing domestic insurance corporations.

But nothing in this section contained shall apply to any insurance company heretofore organized under any general or special law of this state and now carrying on business, but every such corporation is hereby recognized as an existing corporation and is hereby authorized to continue as such corporation and to continue such business until the legislature shall otherwise provide, subject to such of the provisions of this chapter as are made applicable to such corporations.

**§ 10. Certificate of attorney-general.**— When application is made to the superintendent of insurance by any persons desiring to become incorporated as an insurance corporation or for authority to transact the business of insurance in this state under or pursuant to any declaration and charter presented for filing in the insurance department or any amended declaration or charter or any papers required by law to be filed or to be approved by the superintendent, preliminary or as a condition precedent to the exercise of any right by such corporation to make insurance or transact the business of insurance in this state, except renewals of certificates of authority and licenses to agents, the superintendent shall not file such declaration and charter or other papers or grant such certificate of authority until such papers shall have been examined by the attorney-general, and certified by him to the superintendent to be in accordance with the requirements of law.

**§ 11. Examination by superintendent.**— If the declaration and charter or other papers specified in the preceding section shall be approved by the attorney-general, the superintendent shall thereupon cause an examination to be made by himself or by one or more competent and disinterested persons specially appointed by him for that purpose into the affairs of the corporation or proposed corporation applying for authority to do business in this state, or for leave to file any of the papers specified in the preceding section.

If such persons, after examination made, shall certify under oath, if it be a stock corporation, that the amount of capital required by law has been paid in and is possessed by it in cash, or is invested in the manner required by law; or if a mutual or co-operative corporation, that it has received and is in actual possession of the capital, premiums or engagements of insurance to the full extent required



by law; or, if a foreign corporation, that it has a capital paid in in cash or invested to the amount or in the manner required by law, and in all cases stating the amount of capital so paid in or held by the corporation, the superintendent shall file such certificate in his department.

Every such insurance corporation shall also deposit with the superintendent of insurance before receiving authority to transact business in this state, such sums of money or securities as may be required by law.

**§ 12. Minimum capital stock.**—No domestic fire or marine stock insurance corporation shall be hereafter organized with a smaller capital stock than two hundred thousand dollars fully paid in in cash.

No domestic life, health or casualty stock insurance corporation shall be hereafter organized with a smaller capital stock than one hundred thousand dollars fully paid in in cash, with an additional capital stock of fifty thousand dollars fully paid in in cash for every kind of insurance more than one which it is authorized to do by section seventy of this chapter.

**§ 13. Deposit of securities.**—Every deposit made with the superintendent of insurance by any domestic or foreign insurance corporation for the benefit and security of such as effect insurance with it or for any other purpose required by law, shall be in the stocks or bonds of the United States or of this state not estimated above their current market value, or in the bonds of a county or incorporated city in this state, authorized to be issued by the legislature, not estimated above their par value nor their current market value, or in bonds and mortgages on improved, unincumbered real property in this state, worth fifty per centum more than the amount loaned thereon. If the value of such real property consists in part of buildings thereon, such buildings shall be kept insured for the benefit of the mortgagee in such sum as the superintendent of insurance shall approve. No one bond or mortgage so deposited shall be for a less sum than five thousand dollars.

The president or agent of every corporation depositing any bond or mortgage shall annex to the mortgage his affidavit that it was made and taken in good faith for money loaned by the corporation which he represents to the amount named therein and that no part thereof has been since paid or returned, and that he has reason to believe and does believe that the premises thereby mortgaged are worth at least fifty per centum more than the amount of the mortgage there-

on. The superintendent shall prescribe such regulations for ascertaining the title and value of the real property specified in any such mortgage as he may deem necessary. Such deposit may be made by an insurance corporation incorporated under the laws of a state of the United States, or of a country outside of the United States, authorized to do business in this state, in the stocks or bonds of such state or country, or of any province or city therein, approved by the superintendent of insurance provided that similar domestic insurance corporations doing business in such state or country are authorized by the laws thereof to deposit or hold as security therein for the benefit or security of its policy-holders and creditors in such state or country the stocks or bonds of the United States or of this state.

§ 14. **Exchange of securities; interest.**—The stocks and securities deposited with the superintendent of insurance, pursuant to the provisions of this chapter, or heretofore deposited with him, may be exchanged from time to time for other securities receivable as provided in this chapter, and so long as the corporation depositing the securities shall continue solvent and comply with the laws of the state, it shall be permitted by the superintendent to collect the interest or dividends on such deposits.

§ 15. **State treasurer to countersign transfers of securities.**—No transfer of securities held by the superintendent of insurance shall be valid unless countersigned by the treasurer of the state or in his absence from his office or inability to perform its duties by his deputy, and upon notice of at least five days to the corporation depositing such securities. The treasurer shall keep in his office or in the office of the superintendent a book in which shall be entered the name of the corporation from whose account such transfer of securities is made by the superintendent, the name of the transferee unless made in blank, the par value of the securities transferred, the amount for which every mortgage transferred is held by the superintendent; and within five days after countersigning and entering the same, the treasurer shall advise by mail the corporation from whose account such transfer is made, of the kind of security and the amount of the same thus transferred.

The treasurer shall have access at all times during office hours to the books of the superintendent of insurance for the purpose of ascertaining the correctness of any transfer or assignment presented to him to countersign and the superintendent shall have access to the book herein mentioned kept by the treasurer during office hours to ascertain the correctness of the entries upon the same.

The treasurer shall state in his annual report to the legislature the total amount of such transfer or assignment countersigned by him.

§ 16. **Investment of capital and surplus.**—The cash capital of every domestic insurance corporation required to have a capital to the extent of the minimum capital required by law shall be invested and kept invested in the kinds of securities in which deposits with the superintendent of insurance are required by this chapter to be made.

The residue of the capital and the surplus money and funds of every domestic insurance corporation over and above its capital, and the deposit that it may be required to make with the superintendent, may be invested in or loaned on the pledge of any of the securities in which deposits are required to be invested, or in the public stocks or bonds of any one of the United States, or in the stocks, bonds or other evidence of indebtedness of any solvent institution incorporated under the laws of the United States or of any state thereof, except its own stock, or the stock of any other insurance corporation or in such real estate as it is authorized by this chapter to hold.

Any domestic insurance corporation may, by the direction and consent of two-thirds of its board of directors, managers or finance committee, invest, by loan or otherwise, any of such surplus moneys or funds in the bonds issued by any city, county, town, village or school district of this state, pursuant to any law of this state.

Every such corporation may invest any amount of such surplus moneys or funds not exceeding one-half of its annual premium receipts upon its outstanding policies in any other state of the United States, upon bond and mortgage security, upon real property in such state, which shall be unincumbered, improved and worth double the sum loaned thereon; or in the stocks or bonds of any foreign country, to the extent which may be required under the laws thereof, as a condition of such corporation doing business therein, subject to the approval of the superintendent of insurance.

Every such corporation doing business in other states of the United States or in foreign countries, may invest the funds required to meet its obligations incurred in such other states or foreign countries and in conformity to the laws thereof in the same kind of securities in such states or foreign countries that such corporation is by law allowed to invest in, in this state. Any life insurance company may lend a sum not exceeding the lawful reserve which it holds upon any policy, on the pledge to it of such policy and its accumulations as collateral security.

§ 17. **Securities must be interest or dividend-paying.** — The superintendent of insurance shall not credit any insurance corporation transacting business in this state with any security as a part of its capital or as an investment of any part of its capital, or receive any security as a deposit, unless the security is interest or income-bearing or dividend-paying.

§ 18. **Stocks in other corporations.** — If any domestic insurance corporation shall have invested any of its funds in, or loan any of its funds upon, the stock, bonds or other evidences of debt of other corporations pursuant to the laws of this state, and the superintendent shall have reason to believe that such stock, bonds or other evidences of debt are below par or are not yielding an income he may direct it to report to him under oath the amount thereof and its market value. No such stock shall be valued as an asset of the corporation above its market value.

§ 19. **Lien on stock and profits.** — Any domestic fire or marine insurance corporation may in its by-laws prescribe that it shall have a lien upon the stock or certificates of profits of any stockholder or member for any debt thereafter becoming due to such corporation for premiums from him, but a copy of such by-laws shall be indorsed upon the certificate of stock or profits, and the lien may be waived by the written consent of the president of the corporation upon any transfer of such stock or certificate.

§ 20. **Restrictions as to real property.** — Every insurance corporation transacting business in this state may purchase, hold and convey real property only for the following purposes and in the following manner:

1. The building in which it has its principal office and the land upon which it stands.

2. Such as shall be requisite for its convenient accommodation in the transaction of its business.

3. Such as shall have been acquired for the accommodation of its business.

4. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted or for moneys due.

5. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

6. Such as shall have been purchased at sales upon judgments, decrees or mortgages obtained or made for such debts.

7. Such as shall have been acquired under sections thirteen and fourteen of the general corporation law.

All such real property specified in subdivisions four, five and six of this section, as it may acquire and which shall not be necessary for its accommodation in the convenient transaction of its business, shall be sold and disposed of within five years after it shall have acquired title to the same, and it shall not hold such property for a longer period unless it shall procure a certificate from the superintendent of insurance that its interests will suffer materially by the forced sale thereof, in which event the time for the same may be extended to such time as the superintendent shall direct in such certificate.

If it is a domestic marine insurance corporation, it may also acquire and hold such real property within the state or upon or in its waters which is or may be adapted to or available for use in protecting, storing and caring for wrecked vessels or cargoes, or in protecting, storing or caring for such vessels and appliances as are or may be employed for assisting the same, or which is or may be adapted to or available for other purposes of or incident to marine salvage service, and may manage and dispose of such real property in the same manner and with like effect as if it were an unincorporated owner thereof.

§ 21. **When corporation to be deemed insolvent.**— Every insurance corporation specified in articles two, three, four and five of this chapter, whose assets and credits are not sufficient to reinsure its outstanding risks in a solvent insurance corporation, shall be deemed insolvent and may be proceeded against as an insolvent corporation.

§ 22. **Reinsurance.**— Every insurance corporation doing business in this state may reinsure the whole or any part of any policy obligation in any other insurance corporation.

When the reinsurance is made by any other than a life insurance corporation, it shall be required to hold as an unearned premium fund an amount equal to the unearned portion of the gross premiums charged on such reinsured obligations from the date of their issuance by the corporation reinsured.

No credit of any kind shall be allowed or given either as a reduction of taxes or of liabilities, to any corporation transacting business in this state for reinsurance made in corporations not authorized to issue policies in this state. The superintendent of insurance shall require schedules of reinsurance to be filed by each corporation at the time of making its annual report to the department.

§ 23. **Reinsurance by receiver.**— The receiver of any domestic insurance corporation may reinsure, upon the written consent of the superintendent of insurance and the attorney-general, all of the pol-

icy obligations of the corporation in any solvent corporation authorized to do business in this state, if the assets of the corporation of which he is receiver are sufficient to effect such reinsurance. If such assets are insufficient for that purpose, the receiver, upon the like consent, may reinsure a percentage of each policy obligation of such corporation outstanding to the extent that its assets may be sufficient for that purpose. No contract of reinsurance shall be entered into by the receiver, except in pursuance of an order of the court in which the receiver was appointed directing the reinsurance and establishing the general form of the contract for the same.

**§ 24. Limitation of risk.**—No domestic insurance corporation, nor any insurance corporation organized under the laws of any country outside of the United States, doing business in this state, shall expose itself to any loss on any one risk or hazard to an amount exceeding ten per cent of its capital and surplus. No insurance corporation incorporated under the laws of any other state of the United States, doing business in this state, shall expose itself to any loss on any one risk or hazard within this state to an amount exceeding ten per cent of its capital and surplus. No portion of any such risk or hazard which shall have been reinsured in a corporation authorized to do insurance business in this state shall be included in determining the limitation of risk prescribed in this section.

**§ 25. Jurisdiction of superintendent over foreign corporations.**—The superintendent of insurance shall have the same supervision and make the same examination of the business and affairs of every foreign insurance corporation doing business in this state as of domestic insurance corporations doing the same kind of business, and of its assets, books, accounts and general condition. Every such foreign corporation and its agents and officers shall always be subject to and be required to make the same statements and answer the same inquiries and be subject to the same examinations, and, in case of default therein, to the same penalties and liabilities as domestic insurance corporations doing the same kind of business, or any of the agents or officers thereof, are or may be liable to under the laws of this state or the regulations of the insurance department.

The superintendent may, whenever he deems it necessary, either in person or by a proper person appointed by him, repair to the general office of such foreign corporation, wherever the same may be, and make an investigation and examination of its affairs and condition. He may cancel and revoke the certificate of any such foreign corporation refusing or unreasonably neglecting to comply with the



All such real property specified in subdivisions four, five and six of this section, as it may acquire and which shall not be necessary for its accommodation in the convenient transaction of its business, shall be sold and disposed of within five years after it shall have acquired title to the same, and it shall not hold such property for a longer period unless it shall procure a certificate from the superintendent of insurance that its interests will suffer materially by the forced sale thereof, in which event the time for the same may be extended to such time as the superintendent shall direct in such certificate.

If it is a domestic marine insurance corporation, it may also acquire and hold such real property within the state or upon or in its waters which is or may be adapted to or available for use in protecting, storing and caring for wrecked vessels or cargoes, or in protecting, storing or caring for such vessels and appliances as are or may be employed for assisting the same, or which is or may be adapted to or available for other purposes of or incident to marine salvage service, and may manage and dispose of such real property in the same manner and with like effect as if it were an unincorporated owner thereof.

§ 21. **When corporation to be deemed insolvent.**— Every insurance corporation specified in articles two, three, four and five of this chapter, whose assets and credits are not sufficient to reinsure its outstanding risks in a solvent insurance corporation, shall be deemed insolvent and may be proceeded against as an insolvent corporation.

§ 22. **Reinsurance.**— Every insurance corporation doing business in this state may reinsure the whole or any part of any policy obligation in any other insurance corporation.

When the reinsurance is made by any other than a life insurance corporation, it shall be required to hold as an unearned premium fund an amount equal to the unearned portion of the gross premiums charged on such reinsured obligations from the date of their issuance by the corporation reinsured.

No credit of any kind shall be allowed or given either as a reduction of taxes or of liabilities, to any corporation transacting business in this state for reinsurance made in corporations not authorized to issue policies in this state. The superintendent of insurance shall require schedules of reinsurance to be filed by each corporation at the time of making its annual report to the department.

§ 23. **Reinsurance by receiver.**— The receiver of any domestic insurance corporation may reinsure, upon the written consent of the superintendent of insurance and the attorney-general, all of the pol-

icy obligations of the corporation in any solvent corporation authorized to do business in this state, if the assets of the corporation of which he is receiver are sufficient to effect such reinsurance. If such assets are insufficient for that purpose, the receiver, upon the like consent, may reinsure a percentage of each policy obligation of such corporation outstanding to the extent that its assets may be sufficient for that purpose. No contract of reinsurance shall be entered into by the receiver, except in pursuance of an order of the court in which the receiver was appointed directing the reinsurance and establishing the general form of the contract for the same.

**§ 24. Limitation of risk.**—No domestic insurance corporation, nor any insurance corporation organized under the laws of any country outside of the United States, doing business in this state, shall expose itself to any loss on any one risk or hazard to an amount exceeding ten per cent of its capital and surplus. No insurance corporation incorporated under the laws of any other state of the United States, doing business in this state, shall expose itself to any loss on any one risk or hazard within this state to an amount exceeding ten per cent of its capital and surplus. No portion of any such risk or hazard which shall have been reinsured in a corporation authorized to do insurance business in this state shall be included in determining the limitation of risk prescribed in this section.

**§ 25. Jurisdiction of superintendent over foreign corporations.**—The superintendent of insurance shall have the same supervision and make the same examination of the business and affairs of every foreign insurance corporation doing business in this state as of domestic insurance corporations doing the same kind of business, and of its assets, books, accounts and general condition. Every such foreign corporation and its agents and officers shall always be subject to and be required to make the same statements and answer the same inquiries and be subject to the same examinations, and, in case of default therein, to the same penalties and liabilities as domestic insurance corporations doing the same kind of business, or any of the agents or officers thereof, are or may be liable to under the laws of this state or the regulations of the insurance department.

The superintendent may, whenever he deems it necessary, either in person or by a proper person appointed by him, repair to the general office of such foreign corporation, wherever the same may be, and make an investigation and examination of its affairs and condition. He may cancel and revoke the certificate of any such foreign corporation refusing or unreasonably neglecting to comply with the

provision of this section, or to allow the examination herein provided for to be made, and prevent such corporation from further continuance in business in this state.

A foreign insurance corporation may transact in this state only such kinds of business as, under the laws of the state, a like domestic insurance corporation is authorized to transact, provided that companies lawfully transacting both fire and marine insurance in this state on the first day of October, eighteen hundred and ninety-two, may be relicensed to transact both fire and marine insurance; provided further, that any such company be possessed of a cash capital equal in amount to the cash capital required by the laws of this state for a company to do fire insurance and a company to do marine insurance. •

No such corporation shall transact any business in this state not specified in the certificate of authority granted by the superintendent.

**§ 26. Deposits by insurance corporations of other states.—**Every insurance corporation incorporated under the laws of any other state of the United States, and doing business in this state, shall keep on deposit with the superintendent of insurance of this state, or with the auditor, comptroller or general fiscal officer of the state by whose laws it is incorporated, the same amount of securities which a like domestic insurance corporation is required to deposit with the superintendent of insurance of this state. The superintendent of insurance shall be furnished with the certificate of such auditor, comptroller or general fiscal officer, under his hand and official seal, that he, as such auditor, comptroller or general fiscal officer of such state, holds in trust and on deposit, for the benefit of all the policy holders of the corporation, such stocks and securities. Such certificate shall embrace the items of the securities so held, and shall state that the officer making it is satisfied that the securities are worth the amount required by law.

**§ 27. Funds and capital of insurance corporations incorporated outside of the United States.—**A foreign insurance corporation incorporated by or existing under the government or laws of any country outside of the United States, and admitted to do business in this state after May 27, 1880, shall not transact any business of insurance in this state, unless it shall have within the United States, deposited with insurance departments or held in trust as hereinafter provided, not less than five hundred thousand dollars, if a fire insurance corporation, and not less than two hundred thousand dollars, if a life or casualty insurance corporation, invested in

like manner as the capital of a similar domestic insurance corporation is required to be invested.

The capital of such foreign fire insurance corporation, doing fire insurance business in this state, or of any such company hereafter admitted to such business in this state, shall, for the purposes of this chapter, be the aggregate value of such sums or securities as such corporation shall have on deposit in the insurance department of this state, and of the other states of the United States, for the benefit of policy holders in any of such states or in the United States, and of all bonds and mortgages for money loaned on real estate in this state or in any state of the United States, if such loans shall be made in conformity with the laws of such state providing for the incorporation of insurance companies therein and the investment of their capital, and of all other assets and property in the United States, in which fire insurance companies organized under the laws of this state, may, by the laws thereof, invest, if such bonds and mortgages, assets and property shall be invested in and held in the United States by trustees, approved by the superintendent of insurance and citizens of the United States, or deposited with a trust company to be approved by him, for the general benefit and security of all its policy holders in the United States, after taking from such aggregate value the same deductions for losses, debts and liabilities in this and the other states of the United States, and for premiums upon risks therein not yet expired, as is authorized or required by the laws of this state, or the regulation of its insurance department with respect to fire insurance companies organized under the laws of this state.

In addition to the reports required by law of any such foreign fire insurance corporation, it shall annually, in the month of January, render to the superintendent a detailed statement of the items making up such capital, and the deductions to be made therefrom, signed and verified by the manager and a majority of the trustees (or if a trust company, by the proper officers thereof) of the corporation residing in the United States, and the superintendent shall, thereupon, and from such examinations as he may make of the affairs of the corporation, determine the amount of such capital as of the first day of January, and issue to such corporation his certificate of the amount of its capital so determined; and if it shall at any time appear that the net capital for which the last certificate shall be outstanding has been materially reduced, the superintendent may call in such certificate and issue another, corresponding to such reduced capital, providing the capital is not reduced below the sum of two hundred thousand dollars.

The capital of any such foreign fire insurance company, so determined and certified, shall be subject to taxation as provided for in section thirty-four of this chapter.

When any part of its capital is held by trustees or by a trust company, pursuant to the provisions of this section, such trustees or trust company shall be appointed by the board of managers or directors of such foreign insurance corporation, and a duly certified copy of the vote or resolution creating the trust shall, with a certified copy of such trust deed, be filed in the office of the superintendent of insurance; and the superintendent may examine such trustees or the agent or attorney of the corporation in the same manner as he is authorized by this chapter to examine the affairs and funds of any domestic insurance corporation; but the superintendent of insurance shall, upon the written request of any such foreign fire insurance company, transfer to trustees duly appointed by it under the provisions of this section any excess of securities which it shall have deposited with him above the sum of two hundred thousand dollars.

The deposit required of such corporation shall be reckoned and considered as the sum of two hundred thousand dollars, which shall be deposited with the superintendent of insurance in the securities authorized by law. The said superintendent may also receive such additional amounts as said foreign insurance company shall deposit with him, but any additional amounts now on deposit, or which may hereafter be deposited with the said superintendent, shall be received and held by him as a voluntary deposit, in trust for all the policy holders of said foreign insurance company in the United States, and any securities in excess of said two hundred thousand dollars as aforesaid, shall on the written request of said foreign insurance company, be transferred to the trustees appointed by said company, as in this section provided.

§ 28. **Special deposit required in certain cases.**—No insurance corporation, incorporated by or existing under the government or laws of other countries than the United States, except co-operative life and fraternal beneficiary insurance corporations, shall transact any business of insurance in this state, unless, if it transact fire or marine insurance business in this state, it has deposited with the superintendent of insurance, for the benefit and security of its policy holders in the United States, a sum not less than two hundred thousand dollars invested as in this chapter required, or if it transact in this state one or more of the kinds of insurance business specified in section seventy of this chapter, it has deposited with the super-

intendent of insurance, for like purposes, such amount as may be required of domestic insurance corporations doing the same kinds of business. The deposits heretofore made with trustees by marine insurance corporations, shall, within six months after this chapter takes effect, be transferred to the superintendent of insurance, and shall amount to at least the sum of two hundred thousand dollars; and such trustees shall thereby be discharged from all liability in regard to the funds so transferred. If the deposit is of bonds and mortgages, it shall be accompanied by full abstracts of titles and searches, and the fees for examination of title by counsel, to be paid by the corporation making the deposit, shall not exceed twenty dollars for each mortgage, and for an appraisal of property five dollars to each appraiser, not exceeding two, besides expenses for each mortgage.

§ 29. Copy charter and verified statement to be filed.—No foreign insurance corporation shall transact any business of insurance in this state until it has filed in the office of the superintendent of insurance a certified copy of its charter or deed of settlement with a verified detailed statement of all the items, matters and other information in regard to its affairs required by law to be stated in the annual report of a similar domestic insurance corporation, made as of such date as the superintendent may require, and an agreement under its corporate seal that it will not, while authorized to do business in this state, transact any business therein which a similar domestic insurance corporation is prohibited from transacting.

§ 30. Appointment of attorney; removal of cause to federal courts.—No foreign insurance corporation shall transact any business of insurance in this state until it has executed and filed in the office of the superintendent of insurance a written appointment of the superintendent to be the true and lawful attorney of such corporation in and for this state, upon whom all lawful process in any action or proceeding against the corporation may be served with the same effect as if it was a domestic corporation. Service upon such attorney shall thereafter be deemed service upon the corporation.

If any such corporation, having authority to do business in this state, admitted since May twenty-seventh, eighteen hundred and eighty, shall apply to remove into the United States court any action brought against it in any court of this state, its authority to transact the business of insurance in this state shall cease, and the superintendent shall revoke the certificate of authority of any such corporation to do business in this state, and notify its agents to discontinue



the issuing of any new policy thereunder when it shall appear to him that the corporation has made such application, and thereafter the agents of the corporation shall discontinue the issuing of new policies in this state.

§ 31. **Certified copy of superintendent's certificate and of statement to be filed in the clerk's office.**—No agent of any foreign insurance corporation shall transact any business of insurance in this state until he has filed in the office of the clerk of the county where he resides, a certified copy of the superintendent's certificate of authority to do business and a certified copy of the statement required by this chapter to be filed in the offices of the superintendent, and until he has published in a paper at Albany, in which notices by state officers are authorized by law to be published for four successive weeks after such filing, a copy of such certificate and statement, and filed in the office of the superintendent within thirty days thereafter proof of such publication, by an affidavit of the publisher of the newspaper, his foreman or clerk.

§ 32. **Renewal of certificate of authority.**—The certificate of authority granted by the superintendent of insurance, pursuant to the provisions of this chapter, to a foreign insurance corporation to do business in this state, shall not remain in force for a longer period than one year. The statements and evidences of investment required by this chapter to be filed in the office of the superintendent before a certificate of authority is granted to a foreign corporation, shall be renewed from year to year, in such manner and form as the superintendent may require, with an additional statement of the amount of premiums received and losses sustained in this state during the preceding year so long as such authority continues. If the superintendent is satisfied that the capital, securities and investments remain secure, and that it may be safely intrusted with a continuance of its authority to do business, he shall grant a renewal of such certificate of authority, a certified copy of which shall be filed in the office of the clerk of every county in which such corporation has an agency.

§ 33. **Reciprocal requirements.**—If, by the existing or future laws of any state, an insurance corporation of this state having agencies in such other state or the agents thereof, shall be required to make any deposit of securities in such other state for the protection of the policy holders or otherwise, or to make payment for taxes, fines, penalties, certificates of authority, license fees or otherwise, greater than the amount required by this chapter from

similar corporations of such other state by the then existing laws of this state, then and in every such case, all insurance corporations of such state established or heretofore having established an agency or agencies in this state shall be and they are hereby required to make the like deposit for the like purposes in the insurance department of this state, and to pay the superintendent of insurance for taxes, fines, penalties, certificates of authority, license fees and otherwise, an amount equal to the amount of such charges and payments imposed by the laws of such other state upon the insurance corporations of this state and the agents thereof.

The superintendent of insurance may remit any of the fees and charges which he is required by law to collect, except such as he is required to collect by virtue of this section; but no discrimination shall be made in favor of one corporation over another from the same state or country.

§ 84. **Taxation of foreign corporations.**—The capital of any insurance corporation incorporated under the laws of any state or country outside of the United States, to the extent employed in the transaction of business in this state, and as determined and certified as prescribed by section twenty-seven of this chapter, shall be subject to taxation the same as the capital of a like domestic insurance corporation, to be levied, assessed and collected, as prescribed by law, at such place in the state as it shall have its principal office. Upon satisfactory proof to the superintendent of insurance that any foreign insurance corporation has neglected or refused to pay any tax levied and assessed under the laws of this state, he shall revoke any certificate of authority granted by him to such corporation to do business in this state, and it shall thereafter be precluded from doing business herein.

Every life, health or casualty insurance corporation incorporated by or organized under the laws of any government outside of the United States engaged in the transaction of the business of life or health insurance in this state shall annually, on or before the first day of March, pay to the superintendent of insurance a tax of two per cent on all premiums received in cash or otherwise by their attorneys or agents in this state during the year ending on the preceding thirty-first day of December, upon which a tax on premiums has not been paid to any other state. The avails of such tax shall be paid into the state treasury and shall be applicable, so far as necessary, toward defraying the expenses of the insurance department. If any such corporation shall neglect or refuse, to pay such tax, the superintend-

ent shall collect the same out of the interest on the stocks or securities deposited with the superintendent of insurance in the insurance department.

The agent of every corporation, association or individual not incorporated by the laws of this state to effect insurances against marine losses or risks, shall annually, on or before the first day of February, pay to the superintendent of insurance a tax of two per cent upon the amount of all premiums upon insurances against marine losses and risks which have been received by such agent or any person for him or have been agreed to be paid for any such insurance effected or agreed to be effected or procured by him, within this state, for the year ending with the thirty-first day of December preceding; but in collecting such tax from a foreign marine insurance corporation, the superintendent of insurance shall deduct therefrom all other taxes paid by such corporation under the laws of this state.

**§ 35. Superintendent to forward process.**— Whenever lawful process against an insurance corporation shall be served upon the superintendent of insurance under the provisions of this chapter, he shall forthwith forward a copy of such process by mail, prepaid and directed to the secretary of the corporation, or in the case of corporations incorporated under the laws of any foreign government, to the resident manager or last appointed general agent of the corporation in this country.

For each copy of process the superintendent shall collect the sum of two dollars, which shall be paid by the plaintiff at the time of such service, to be recovered by him as part of the taxable disbursements if he succeeds in the suit.

**§ 36. Officers and directors not to receive compensation for negotiating loans.**— No director or officer of an insurance corporation doing business in this state shall receive any money or valuable thing for negotiating, procuring or recommending any loan from any such corporation, or for selling or aiding in the sale of any stocks or securities to or by such corporation.

Any person violating the provisions of this section shall forfeit his position as such director or officer, and be disqualified from thereafter holding any such office in any insurance corporation.

**§ 37. Corporations heretofore formed.**— Any domestic insurance corporation heretofore incorporated or extended under the provisions of any general or special law of the state is hereby brought under all of the provisions of this chapter relating to such corporation, except that its capital may continue of the amount

named in its charter during the existing term thereof, unless it extends to other kinds of insurance, and it shall be entitled to all privileges granted by such charter not authorized by this chapter. A greater number than a majority of the directors of any such specially chartered corporation shall not be required to be residents of this state notwithstanding the provisions of any special law.

§ 38. **Fiduciary capacity of agents.**—Every person appointed or acting in this state as agent of any insurance corporation who receives or collects any moneys as such agent, shall be responsible in a trust or fiduciary capacity to such corporation therefor.

§ 39. **Examiners and examinations.**—The superintendent of insurance shall, as often as he deems it expedient, appoint one or more competent persons not officers of or connected with, or interested in any insurance corporation doing business in this state, other than as a policy holder, as examiners to examine into the affairs of any such corporation. Such examiners may examine under oath the officers and agents of any such corporation and its books, with reference to its business. Every such corporation, its officers and agents, shall produce its books and all papers in its or their possession relating to its business or affairs for the inspection and examination of such examiners whenever required; and shall facilitate such examination and aid the examiners in making the same so far as it is in their power to do so.

Every such examiner shall make a full and true report of every examination made by him, verified by his oath; which report so verified shall be presumptive evidence in any action or proceeding in the name of the people against the corporation, its officers or agents, of the facts stated therein. The superintendent shall grant a hearing to the corporation examined before filing any such report; and may withhold any such report from public inspection for such time as he may deem proper and may, if he deems it for the interest of the public to do so, publish any such report or the result of any such examination as contained therein, in one or more newspapers of the state.

§ 40. **Examination by superintendent upon request of stockholder or creditor.**—The superintendent shall make an examination into the affairs of any insurance corporation doing business in this state, whenever any stockholder or judgment creditor of any such corporation shall, by a declaration subscribed and sworn to by him, notify the superintendent that from facts within the knowl-

edge of the person making the declaration, and stated therein, he believes the condition of such corporation does not justify its continuance in business, and if the superintendent is satisfied from the facts stated that the corporation is in such a condition.

No such examination shall be made within twelve months from the time when an examination shall have been made by an examiner of the department.

No stockholder or creditor of any such domestic corporation, without its consent by a vote of its board of directors, at a meeting called for that purpose, shall maintain an action for the dissolution of the corporation, or apply for the appointment of a receiver of its property and effects unless after notification by such creditor or stockholder as in this section provided the superintendent, if satisfied as aforesaid, shall neglect or refuse for the space of thirty days to cause such examination to be made.

§ 41. **Impairment of capital.**—If it appears to the superintendent, from any statement made to him or from an examination made by him or by any examiner appointed by him, that the capital stock of any insurance corporation, except a life insurance corporation, doing business in this state is impaired to the extent of twenty-five per cent thereof or that its assets are insufficient to justify its continuance in business, he shall determine the amount of such impairment or deficiency, and issue a written requisition to the corporation to require its stockholders to make good the amount of the impairment or deficiency within such period as he may designate, not less than thirty nor more than ninety days from the service of the requisition.

If the amount of any such impairment or deficiency shall not be made good within the time specified in such requisition, the corporation, if a domestic corporation, shall be deemed insolvent and may be proceeded against as an insolvent corporation, by the attorney-general in the manner authorized by law.

If it is a foreign insurance corporation the superintendent shall revoke the certificate of authority issued to such corporation and shall cause a notice thereof to be published in the state paper for four weeks and such corporation, its agent or agents, shall, after such notice, discontinue the issuing of any new policies.

§ 42. **Stockholders to make good impairment or deficiency.**—Upon the receipt of the requisition of the superintendent of insurance specified in the last preceding section, the directors of the corporation shall forthwith call upon its stockholders ratably for such amounts as will make up such impairment or deficiency.

If any stockholder refuses or neglects to pay the amount called for after notice, personally given or by advertisement, in such time and manner as the superintendent shall approve, the directors may require the return of the certificate of stock held by the stockholder, and in lieu thereof issue to him new certificates for such number of shares as he may be entitled to in the proportion that the ascertained value of the assets of the corporation as determined by the superintendent bears to its original capital, the corporation paying for any fractional parts of shares.

The directors may create new stock and issue certificates therefor and dispose of the same at not less than par for an amount sufficient to make up the original capital of the corporation.

For any losses accruing upon new risks taken after the expiration of the period limited by the superintendent in any such requisition and before such impairment or deficiency shall be made up, the directors of the corporation shall be jointly and severally individually liable to the extent thereof.

Any transfer of stock made during the pendency of any such examination or after any such report shall have been made and before any impairment or deficiency specified in any such requisition shall be made good, shall not release the person making the transfer from his liability for losses accrued previous to such transfer.

§ 43. Impaired mutual insurance corporations. — If it appears to the superintendent from an examination made by him or by an examiner appointed by him that the assets or capital of any mutual insurance corporation are insufficient to justify its continuance in business, he shall determine the amount of such deficiency and issue a written requisition to the officers of the corporation requiring them to make it good within a time to be specified therein, not less than thirty nor more than ninety days from the service of such requisition. Such service may be made by mail, directed to the corporation at its place of business in this state specified in its charter. Upon the service of such requisition the directors of the corporation shall forthwith cause such deficiency to be made good, and proof to be filed with the superintendent within the time specified in the requisition that the same has been made good.

For any losses accruing upon new risks taken after the expiration of such time, and before such deficiency shall be made good, the directors of the corporation shall jointly and severally be personally liable therefor. If such deficiency shall not be made good within



the time specified in such requisition and satisfactory proof thereof filed with the superintendent, the corporation shall be deemed insolvent and may be proceeded against by the attorney-general as an insolvent corporation in the manner authorized by law.

§ 44. **Reports of corporations.**—Every corporation, engaged wholly or in part in the transaction of the business of insurance in this state, whether heretofore or hereafter incorporated by a general or a special law, except corporations formed under articles sixth, seventh, eighth and ninth of this chapter, shall annually, on the first day of January, or within two months thereafter, file in the office of the superintendent of insurance a statement verified by the oath of at least two of the principal officers of such corporation, showing its condition on the thirty-first day of December then next preceding, which shall be in such form and shall contain such matters as the superintendent shall prescribe. If a foreign corporation incorporated under the laws of a state or country outside of the United States such oath may be made by the manager thereof within the United States.

The superintendent may also address any inquiries to any such insurance corporation or its officers in relation to its doings or conditions, or any other matter connected with its transactions. Every corporation so addressed shall promptly and truthfully reply in writing to any such inquiries, and such reply shall be verified, if required by the superintendent, by such officer of the corporation as he shall designate.

§ 45. **Forms of report to be furnished by superintendent.**—The superintendent shall cause to be prepared and furnished to every corporation required by the provisions of this chapter to report to him, printed forms of the reports and statements required of such corporations. He may make such changes from time to time in the form of the same as shall seem to him best adapted to elicit from such corporations a true exhibit of their condition in respect to the several matters which they are required to report, or in respect to any other matters which he may deem material. The report of any corporation, the capital of which is composed in whole or in part of notes, shall, in addition to the foregoing, exhibit the amount of notes originally forming its capital, and also what proportion of such notes is still held by the corporation and considered capital.

If a corporation, incorporated under the laws of any state or country outside of the United States, such report with respect to

the business done and assets held by or for the corporation, shall only contain a statement of the business done and assets held by or for it within the United States for the protection of all policyholders residing within the United States, and shall not contain any statement in regard to its assets and business elsewhere.

Every insurance corporation failing to make and file the reports and statements required by this chapter or to reply to any inquiry of the superintendent, shall forfeit to the people of the state five hundred dollars for the first offense, and an additional five hundred dollars for every month that such corporation shall thereafter continue to transact any business of insurance in this state.

§ 46. Annual report of superintendent.—The superintendent of insurance shall annually transmit to the legislature at the opening of its session, or within ninety days thereafter, a report containing the statements and reports made to him pursuant to the provisions of section forty-four of this chapter arranged in tabular form, or in abstracts, in classes according to the kind of insurance made by the corporation, which report shall also contain:

1. A statement of all insurance corporations authorized to do business in this state during the year ending the thirty-first day of December next preceding, with their names, locations, amounts of capital, dates of incorporation, and of the commencement of business, and kinds of insurance in which they are engaged respectively.

2. A statement of the insurance corporations whose business has been closed during such year and the reasons for closing the same, with the amount of their assets and liabilities so far as the same are known, or can be ascertained by him.

3. Any amendments to the insurance law which in his judgment may be desirable.

4. The names and compensation of the clerks employed by him, the whole amount of the expenses of the department, the amount assessed upon the insurance corporations to defray the expenses of said department, the amount of assessment paid by each corporation, and the amount, if any, for which the treasury shall be in advance during such year.

In addition to the usual number of copies for the use of the legislature, there shall be printed and in readiness for distribution by the printer employed to print legislative documents, four thousand copies of such report for the use of the department.

§ 47. Deceptive statements prohibited.—No insurance corporation doing business in this state, or agent thereof, shall state or represent by advertisement in any newspaper, periodical or maga-

zine, or by any sign, circular, card, policy of insurance or certificate of renewal thereof or otherwise, that any funds or assets are in possession of any such corporation not actually possessed by it and available for the payment of losses and claims, and held for the protection of its policy holders or creditors.

§ 48. **Contents of advertisements.**— Every advertisement or public announcement, and every sign, circular or card issued by any fire insurance corporation doing business in this state purporting to make known its financial standing, shall exhibit the capital in the United States actually paid in in cash, and the amount of net surplus of assets over all its liabilities actually available for the payment of its losses, and held for the protection of its policy holders, including in such liabilities the fund, if any, reserved for reinsurance of outstanding risks, and shall correspond with the verified statement made by it to the insurance department next preceding the making or issuing of the same. Any such corporation may publish in any policy or certificate of renewal thereof, a single item showing the amount of its capital as set forth in its charter, act of incorporation, deed of settlement, or articles of association under which it is authorized to transact business.

For every violation of this and the preceding section by any such corporation, it shall forfeit for the first offense to the people of the state the sum of five hundred dollars, and for every subsequent offense the sum of one thousand dollars, which sums, when recovered, shall be paid into the treasury of the state to the credit of the fund for defraying the expenses of the insurance department.

§ 49. **Agents.**— Every agent of any insurance corporation doing business in this state shall, in all advertisements of such agency, publish the location of the corporation, giving the name of the city, town or village in which it has its principal business office, and the state or government under the laws of which it is organized.

The term, agent, in this chapter shall include an acknowledged agent or surveyor or any other person or persons who shall in any manner aid in transacting the insurance business of any insurance corporation not incorporated by the laws of this state, and any broker whose business, in whole or in part, is to negotiate for and place risks, deliver the policies covering the same and collect premiums therefor.

§ 50. **Agents' certificate of authority.**— No person or corporation shall act as agent for any foreign insurance corporation in the transaction of any business of insurance within this state, or nego-

tiate for or place risks for any such corporation, or in any way or manner aid such corporation in effecting insurances or otherwise in this state, unless such corporation shall have fully complied with the provisions of this chapter. Every such agent shall annually procure a certificate of authority from the superintendent of insurance, and a duplicate thereof shall be filed in the county clerk's office of the county in which such agent is transacting business. Any person or corporation violating the provisions of this section shall forfeit to the people of the state the sum of five hundred dollars for the first offense and an additional sum of one hundred dollars for each month during which any such person or corporation shall continue to act for any such corporation in effecting, or aiding it to effect, unauthorized business or insurance in this state.

**§ 51. Examination of securities deposited by officers of corporation.**—Every insurance corporation having securities deposited in the office of the superintendent of insurance, shall, once or more during each calendar year, and at such time or times during the ordinary business hours as the corporation may select, cause such securities to be examined by its president, secretary, actuary, or other officer or agent whom it may designate for that purpose, to be compared with the books of the insurance department, and if found correct, to execute to the superintendent of insurance a receipt or certificate setting forth in the same the different kinds of such securities and the amounts thereof, and that the same are in the possession and custody of the superintendent at the date of such receipt.

**§ 52. Reorganization of existing corporations and amendment of certificates.**—Any domestic insurance corporation existing or doing business at the time this chapter takes effect, and not incorporated under any law repealed by this chapter, may, by a vote of a majority of its directors, accept the provisions of this chapter and amend its charter to conform with the same, upon obtaining the consent of the superintendent of insurance thereto in writing; and thereafter it shall be deemed to have been incorporated under this chapter. Every domestic insurance corporation may amend its charter or certificate of incorporation by inserting therein any statement or matter which might have been originally inserted therein; and the same proceedings shall be taken upon the presentation of such amended charter or certificate to the superintendent of insurance as are required by this chapter to be taken with respect to an original charter or certificate, and if approved by the superintendent of insurance, and his certificate of authority to do business thereun-

der is granted, the corporation shall thereafter be deemed to possess the same powers and be subject to the same liabilities as if such amended charter or certificate had been its original charter or certificate of incorporation, but without prejudice to any pending action or proceeding or any rights previously accrued.

**§ 53. General penalties.**—Any corporation or person violating any provision of the insurance law shall forfeit to the people of the state the sum of five hundred dollars for every such violation unless a different sum is specifically provided for the violation by the provisions of this chapter. Such sum, when collected, shall be paid into the treasury of the state.

**§ 54. Agents not to act for unauthorized corporations.**—No person, partnership, or association of persons shall engage in the business of insurance in this state except as agents of a person or corporation authorized to do the business of insurance in the state, unless possessed of the capital required of an insurance corporation doing the same kind of business in the state and invested in the same manner; nor unless he or they shall have made and deposited with the superintendent of insurance securities of the same amount required of an insurance corporation doing business in this state, nor unless the superintendent of insurance shall have granted to him or them a certificate to the effect that he or they have complied with all the provisions of law which an insurance corporation doing business in this state is required to observe, and that the business of insurance specified therein may be safely intrusted to the person, partnership or association of persons to whom the certificate is granted.

Every person, partnership or association receiving any such certificate of authority shall be subject to the insurance laws of the state and to the jurisdiction and supervision of the superintendent of insurance in the same manner as if an insurance corporation authorized by the laws of the state to engage in the business of insurance specified in the certificate.

No such person, partnership or association shall transact business under a corporate or fictitious name or under any name, style or title other than the true name of such person, or of the persons comprising such partnership or association.

**§ 55. Insurance without the consent of the insured prohibited.**—No policy of insurance shall be issued upon any property except upon the application and in the name of some person having

an interest in the property. No policy or agreement for insurance shall be issued upon the life or health of another or against loss by disablement by accident except upon the application of the person insured; but a wife may take a policy of insurance upon the life or health of her husband or against loss by his disablement by accident; an employer may take out a policy of accident insurance covering his employees collectively for the benefit of such as may be injured, and a person liable for the support of a child of the age of one year and upward may take a yearly renewable term policy of insurance thereon, the amount payable under which may be made to increase with advancing age and which shall not exceed the sums specified in the following table, the ages wherein specified being the age at time of death, and which, after the age of thirteen, may become an ordinary life policy for an amount not exceeding the sum specified in the table:

Between the ages of one and two years, thirty dollars.

Between the ages of two and three years, thirty-four dollars.

Between the ages of three and four years, forty dollars.

Between the ages of four and five years, forty-eight dollars.

Between the ages of five and six years, fifty-eight dollars.

Between the ages of six and seven years, one hundred and forty dollars.

Between the ages of seven and eight years, one hundred and sixty-eight dollars.

Between the ages of eight and nine years, two hundred dollars.

Between the ages of nine and ten years, two hundred and forty dollars.

Between the ages of ten and eleven years, three hundred dollars.

Between the ages of eleven and twelve years, three hundred and eighty dollars.

Between the ages of twelve and thirteen years, four hundred and sixty dollars.

Between the ages of thirteen and sixteen years, five hundred and twenty dollars.

Between the ages of sixteen and seventeen years, six hundred and twelve dollars.

Between the ages of seventeen and eighteen years, seven hundred dollars.

Between the ages of eighteen and nineteen years, seven hundred and eighty-four dollars.

Between the ages of nineteen and twenty years, eight hundred and fifty-five dollars.



Between the ages of twenty and twenty-one years, nine hundred and thirty dollars.

§ 56. Proceedings for accounting, injunction or a receiver must be upon application of the attorney-general. — No order, judgment or decree providing for an accounting or enjoining, restraining or interfering with the prosecution of the business of any domestic insurance corporation or appointing a temporary or permanent receiver thereof shall be made or granted otherwise than upon the application of the attorney-general, on his own motion or after his approval of a request in writing therefor of the superintendent of insurance, except in an action by a judgment-creditor or in proceedings supplementary to execution.

§ 57. Application of article limited. — The provisions of this article shall not apply to the corporations specified in articles seven and nine of this chapter, or to any town or county co-operative insurance corporation incorporated under any special act of the legislature, for purposes similar to those for which corporations may be formed under article nine, nor to any corporation subject to the supervision of or required by or in pursuance of law to report to the superintendent of the banking department, nor to any individual or partnership or association of underwriters known as Lloyds or as individual underwriters which, at the time of the passage of this chapter, is lawfully engaged in the business of insurance within this state and not required by law to report to the superintendent of insurance or the insurance department or subject to their supervision or examination, nor to any such association, notwithstanding any change hereafter made therein by the death, retirement or withdrawal of any of such underwriters or by the admission of others to such association.

## ARTICLE II.

### LIFE, HEALTH AND CASUALTY INSURANCE CORPORATIONS.

#### SECTION 70. Incorporation.

71. Completion of organization.

72. Withdrawal of securities upon relinquishment of business.

73. Special deposits to secure registered policies and annuity bonds.

74. Annual report of corporation of registered policies and annuity bonds.

75. Registration of policies and annuity bonds.

76. When depositing corporations to be deemed insolvent.

77. Proceedings by receiver.

78. Additional duties of receiver.

79. Annual investigation of affairs of such corporations; disposition of surplus.

**SECTION 80. Existing corporations.**

81. Powers and compensation of receiver.
82. When receiver shall not be appointed.
83. Disposition of surplus to policy holders.
84. Valuation of policies.
85. When actual premium is less than net premium.
86. What shall be allowed as assets.
87. Restrictions as to dividends removed.
88. Surrender value of lapsed or forfeited policies.
89. Discriminations prohibited.
90. Discriminations against colored persons prohibited.
91. Certificate of authority of agents.
92. No forfeiture of policy without notice.

§ 70. **Incorporation.**—Thirteen or more persons may become a corporation for the purpose of making any of the following kinds of insurance :

1. Upon the lives or the health of persons and every insurance appertaining thereto, and to grant, purchase or dispose of annuities.
2. Against injury, disablement or death resulting from traveling or general accidents, and every insurance appertaining thereto.
3. Insuring any one against loss or damage resulting from accident to or injury suffered by an employe or other person, and for which the person insured is liable.
4. Guaranteeing the fidelity of persons holding places of public or private trust. Guaranteeing the performance of contracts other than insurance policies and executing or guaranteeing bonds and undertakings required or permitted in all actions or proceedings or by law allowed.
5. Against loss by burglary or theft, or both.
6. Upon glass against breakage.
7. Upon steam boilers and upon pipes, engines and machinery connected therewith or operated thereby, against explosion and accident and against loss or damage to life or property resulting therefrom, and to make inspection of and to issue certificates of inspection upon such boilers, pipes, engines and machinery.
8. Against any other casualty specified in the charter which may lawfully be the subject of insurance.

By making and filing in the office of the superintendent of insurance a certificate signed by each of them, stating their intention to form a corporation for the purpose or purposes named in some one of the foregoing subdivisions specifying the subdivisions; and setting forth a copy of the charter which they propose to adopt, which shall state the name of the proposed corporation, the place where it is to

be located, the kind of insurance to be undertaken, and under which of the foregoing subdivisions it is authorized, the mode and manner in which its corporate powers are to be exercised, the manner of electing its directors and officers, a majority of whom shall be citizens and residents of this state, the time of such election, the manner of filling vacancies, the amount of its capital, and such other particulars as may be necessary to explain and make manifest the objects and purposes of the corporation.

Such certificate shall be proved or acknowledged and recorded in a book to be kept for that purpose, and a certified copy thereof delivered to the persons executing the same.

No such corporation shall be formed under this article for the purpose of undertaking any other kind of insurance than that specified in some one of the foregoing subdivisions, or more kinds of insurance than are specified in a single subdivision, except that a corporation may be formed for all the purposes combined, or any two or more of them, specified in the first, second and third subdivisions, or for all the purposes combined, or any two or more of them specified in the second, third, fourth, fifth, sixth, seventh and eighth subdivisions.

No one policy issued by any one corporation shall embrace more kinds of insurance than are specified in one of such subdivisions, but a policy may embrace risks specified in subdivisions two and three.

§ 71. **Completion of organization.**— Upon receipt of the certified copy of the certificate of incorporation from the superintendent, the persons signing such certificates shall publish notice of their intention to form such corporation in the state paper for six successive weeks, upon expiration of which time they may open books to receive subscriptions to the capital stock and keep them open until the whole of such stock has been subscribed for and collect such subscriptions; and may invest such capital in the manner prescribed in this chapter.

No such corporation shall transact any business of insurance until the capital has been fully paid in in cash, nor until it shall have deposited with the superintendent of insurance one hundred thousand dollars in the securities required by law. If organized for purposes mentioned in two or more of the foregoing subdivisions, it shall deposit with the superintendent the same amount in securities in the aggregate, not exceeding two hundred and fifty thousand dollars, as if corporations had been separately formed for such purposes.

The securities deposited pursuant to this section shall be held by

the superintendent in trust for the benefit and protection of and as security for the policy-holders of the corporation.

**§ 72. Withdrawal of securities upon relinquishment of business.**—When any such corporation shall desire to relinquish its business, the superintendent shall, on the application of such corporation under the oath of its president or principal officer and secretary or actuary give notice of such intention in a paper at Albany in which notices by state officers are required by law to be published at least twice a week for six months.

After such publication, he shall deliver up to such corporation the securities held by him belonging to it, upon being satisfied by an exhibition of the books and papers of such corporation and on examination made by himself or by some competent person to be appointed examiner by him, and upon the oath of the president or principal officer and the secretary or actuary of such corporation that all its debts and liabilities of every kind are paid and extinguished that are due or may become due, upon any contract or agreement made within the United States.

The superintendent may also, from time to time, deliver up to such corporation, or its assignees, any portion of such securities on being satisfied, in the manner and form hereinbefore required, or upon any other competent proof, that all the debts and liabilities of every kind that are due, or may become due, within the United States are less than the amount of the portion of such securities he shall still retain.

Any foreign life insurance \* desiring to discontinue business in this country and having made the publication hereinbefore required, may, in the discretion of the superintendent of insurance withdraw one-half of its deposits on registering, according to the provisions of law for the registry of policies, all its outstanding policies issued to citizens or residents of the United States, and covenanting to maintain unimpaired the reinsurance deposit for such registered policies for all future time, and specially pledging for their security all future premiums payable on American policies.

**§ 73. Special deposits to secure registered policies and annuity bonds.**—Any domestic life insurance corporation may deposit with the superintendent of insurance securities of the kinds and in addition to the amount now required and authorized by law to be deposited with it, to any amount not less than twenty-five thousand dollars, which shall be legally transferred by it to the superintendent for the common benefit of all the holders of its registered policies and annuity bonds issued under the provisions of this

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\* So in the original.

article, and he shall hold the same in trust for the purposes and objects specified in this article.

Such securities shall not be alienated from the purposes of such trust, nor transferred except in the manner provided in this article, and such transfer must be made by the superintendent under his seal of office upon the written application, under its corporate seal, of the corporation making the deposit, or of the receiver of such corporation, and in compliance with the laws of the state relating to such transfers. When such securities shall have been legally transferred to the superintendent, he shall issue to such corporation registered policies of insurance or annuity bonds of such denominations or amounts as the corporation may require. Such policies or bonds shall bear upon the face thereof the words "the reserve on this policy (or bond) is secured by pledge of public stock or bonds and securities" with the seal of the department, and shall be countersigned by the superintendent or his authorized deputy.

The corporation shall be charged by the superintendent upon the delivery of such policies or bonds with the amounts of the net present value thereof valued by the table authorized by law in relation to life insurance corporations according to the amount and number of premiums paid annually, semi-annually or quarterly thereon and the terms thereof, but in no case shall the amount of such value exceed in the aggregate the amount of securities deposited under the provisions of this section.

**§ 74. Annual report of corporation of registered policies and annuity bonds.**— Every such corporation shall annually on July first or within sixty days thereafter report to the superintendent of insurance under the oath of the president and actuary the exact condition of the registered policies received from the superintendent and of the premium account of such policies, and shall deposit with the superintendent additional and similar securities to an amount equal to any increase in value of the policies heretofore issued and which shall remain in force, valued by the same rule as upon the issue thereof. The securities thus from time to time deposited, or so large an amount thereof as may be necessary to equal at all times, the net value of all the outstanding registered policies and annuity bonds of such corporation, shall be held by the superintendent in trust, as provided in the preceding section, until the obligations of such corporation under such registered policies and annuity bonds, shall, to the satisfaction of the superintendent, be fully liquidated, canceled and annulled.

The state shall not be deemed to have incurred any obligation to pay the policies and annuity bonds so issued, beyond the proper application of the securities so deposited towards their liquidation, as in this article provided.

The treasurer of the state, and any person duly authorized by the depositing or reinsuring corporation, shall, at all times, in the usual office hours, have access to the books and other documents in the insurance department relating to the deposits made, and policies and annuity bonds issued, under the provisions of this article, and to such securities as may be necessary for the examination thereof.

The treasurer shall for the services required by this chapter receive an annual salary of two hundred and fifty dollars to be paid by the corporations availing themselves of the provisions of this and the preceding section.

Any such depositing corporation may at any time withdraw any excess of securities above the net present value hereinbefore specified, upon satisfying the superintendent by written proof to be filed in the department that such excess exists, and shall be allowed to receive the interest on all securities deposited and to exchange such securities by substituting other securities of the kind required by law to be deposited by any such corporation.

§ 75. **Registration of policies and annuity bonds.**—Such corporation shall deliver to the superintendent of insurance the policy and annuity bonds engraved and printed or printed and written in such manner as the superintendent shall direct, with duplicate originals of the same duly signed. On their receipt by the superintendent he shall cause them to be duly registered in proper books kept for that purpose, in consecutive numbers, corresponding to the numbers on such policies and bonds, and shall cause his name or the name of his deputy to be inscribed on the policies and bonds and affix the seal of the department to the same, and shall return the original policies to the depositing corporation. The expenses necessarily incurred in registering, countersigning and sealing such policies and annuity bonds, and in otherwise executing the provisions of this article, including the salary of the treasurer, shall be audited and paid out of any moneys in the treasury not otherwise appropriated. For the purpose of reimbursing the same the superintendent shall charge against the depositing corporations respectively an amount sufficient for such purposes as may be just and reasonable. The superintendent shall receive mutilated policies and annuity bonds issued to any such corporation and deliver in lieu



thereof other policies and bonds of like tenor and date, and, in case of lost policies or bonds, furnish certified copies of the duplicates on file in his office.

**§ 76. When depositing corporation to be deemed insolvent.**—If at any time the affairs of any such depositing corporation shall, in the opinion of the superintendent of insurance, appear to be in such a condition as to render the issuing of additional policies and annuity bonds by the corporation injurious to the public interests, such corporation shall be deemed insolvent and the superintendent shall report the fact to the attorney-general, who shall bring such action or institute such proceeding as may be authorized by law to be taken against an insolvent insurance corporation. If in any such action or proceeding it shall appear to the satisfaction of the court that the assets and funds of the corporation are not sufficient to justify its further continuance of the business of insuring lives, granting annuities and incurring new obligations as authorized by its charter, it shall enjoin and restrain the corporation from the further transaction of its business and appoint a receiver of its assets and credits, who, upon filing his bond to the people of the state in an amount and with sureties approved by the court, conditioned for the faithful performance of his duties, shall take possession of all such assets and credits, including the securities deposited in the insurance department.

**§ 77. Proceedings by receiver.**—Such receiver shall immediately, on entering upon the duties of his office, appoint a competent actuary, approved by the superintendent of insurance, who shall make a careful investigation according to the standard fixed by the laws of this state into the condition of the corporation, and report thereon in writing, under oath, to the court, the superintendent and the receiver. If it shall be found by such report that the securities deposited by such corporation in the insurance department and its assets and credits, including the future premiums that will mature on outstanding policies and other obligations, are sufficient under the laws of the state to pay all the policies, annuities and other obligations of the corporation as they may mature by the terms thereof and the legal costs and expenses incident to the business, and if, upon due notice to the superintendent, such actuary's report shall be confirmed by the court, the receiver shall be discharged and all the properties and effects of the corporation shall be immediately returned to the same.

If the report of the actuary shall show that such securities, assets,

credits and premiums are not sufficient under the laws of the state to pay all the policies, annuities and other obligations of the corporation as they may mature by the terms thereof, and the legal costs and expenses of the receivership, and the report shall, upon due notice to the superintendent, be confirmed by the court, the court may direct the conversion of the securities held by the superintendent into money for the purpose of distribution, and the superintendent shall, thereupon, with the consent and advice of the treasurer of the state, and in such manner as the receiver, superintendent and treasurer, or a majority of them, shall determine, sell and convert such securities into money. The proceeds of such securities, when required for distribution, and when the court shall make an order for that purpose, with suitable provision for the safety of the moneys, shall be paid to the receiver on his giving his receipt to the superintendent, and shall be applied by the receiver, under the direction of the court, to the payment of the registered policyholders of the corporation in proportion to the net value of their policies respectively, and to the registered annuities of the corporation, in proportion to the then present value of their respective annuities, as estimated by the legal standard for valuing life insurance and annuity obligations within this state. The surplus of the proceeds of such securities, if any there be, with all the other assets of the corporation, shall then be applied to the payment of all the just debts of the corporation incurred in continuing and carrying on its lawful business.

§ 78. **Additional duties of receiver.** — Whenever the business of any such corporation shall be continued under the provisions of the next preceding section, if the receipts for premiums and from all other sources shall at any time be in excess of the sums required to meet the policy and other obligations of the corporation, such receiver, whenever such excess shall amount to twenty-five thousand dollars, shall invest the same in such securities as are authorized to be deposited in the insurance department, and shall deposit such securities with the superintendent of insurance in the manner herein provided.

§ 79. **Annual investigation of affairs of such corporation; disposition of surplus.** — An investigation shall annually be made on the first day of January, or within thirty days thereafter, by a competent actuary approved by the superintendent of insurance, into the affairs of such corporation. If, upon such investigation, it shall be found that a surplus of its assets, not less in amount than ten thousand dollars, exists, after making adequate provision for meeting

after maturity all the obligations of the corporation and all the legal expenses of the receivership, and in case of a joint-stock corporation, over and above the amount of its capital, such portion of such surplus as may, under the charter of the corporation, if a stock corporation, belong to its stockholders, shall be set aside and invested by the receiver in such securities as are authorized to be deposited by life insurance corporations in the insurance department as a contingent fund, and scrip therefor shall be issued by the receiver to such stockholders, respectively, in proportion to their respective shares bearing six per cent interest, and payable on the final settlement of the affairs of the corporation as herein provided. The remainder of such surplus, if the corporation be a stock corporation, and the whole of such surplus, if it be a mutual corporation, shall be disposed of as follows: One-quarter thereof shall be reserved by such receiver and invested by him in such securities as a contingent fund, for which scrip shall be issued by such receiver to all policy-holders entitled under their policies to share in the surplus of the corporation. Such scrip shall bear interest at the rate of six per cent, payable annually, and shall be redeemable on the maturity of the policy on account of which the scrip was issued.

The remaining three-fourths of such surplus shall be paid by the receiver within one year from such first day of January, to such policy-holders respectively in lawful money of the United States. No scrip shall be issued for any fractional part of a dollar, and any scrip so issued may at any time be called in and canceled by the receiver without payment, if necessary, to better secure the remaining obligations of the corporation, and all the scrip so issued shall have printed thereon a clause to the following effect: If, on the final accounting of the receiver, after the liquidation of all the obligations of the corporation as herein provided, and in case of a joint-stock corporation the return to the respective stockholders of their respective amounts of stock and the scrip issued to them under this section, there shall remain a surplus in the hands of the receiver, it shall be divided by him among the stockholders, if in a stock corporation, proportionately to their respective shares, as provided by the charter of the corporation, and the balance of such surplus among the last ten policy-holders of the corporation or their legal representatives in proportion to the amounts of their respective policies, and if not a stock corporation, among the holders of the last ten policies issued by the corporation or their legal representatives in proportion to the amount of their respective policies.

§ 80. **Existing corporations.**—Any life insurance corporation which by virtue of any law is making deposit of securities and receiving registered policies at the time this chapter takes effect, shall, after such time, make such deposit and receive such policies in accordance with this chapter, and not otherwise.

Such corporation shall be authorized to issue such policies and annuity bonds as shall be registered under this article, and shall, whenever required by the holders of its unregistered policies and annuity bonds, issued previous to the passage of this chapter, upon their compliance with the terms and conditions of such corporation for registered policies and annuity bonds, issue to them respectively, registered policies and annuity bonds in exchange for and in value equal to those previously issued to them. Any corporation availing itself of the provisions of this article, may issue unregistered policies and annuity bonds as heretofore authorized by its charter, but subject to the provisions of this article in relation to the distribution of its assets.

§ 81. **Powers of receiver.**—The receiver of any such corporation shall have all the powers incident to the successful management of its affairs, and, to that end, authority to purchase policies issued by the corporation, to make any other compromise or settlement of its outstanding obligations, and to use the corporate seal of the corporation whenever necessary to the transaction of the business of his receivership.

The receiver may employ such clerks and actuaries as he may deem necessary for the proper conduct of his business as such receiver, and such clerks and actuaries shall be paid such reasonable compensation as he may determine, subject, however, to the approval of the superintendent of insurance. The compensation of such receiver, clerks and actuaries shall be a charge upon the funds of such corporation and paid out of such funds.

§ 82. **When receiver shall not be appointed, or new policies issued.**—No receiver for any life insurance corporation shall be appointed if such corporation has actual funds invested according to law, of a net cash value equal to its outstanding liabilities, and a sufficient reserve on policies and claims not matured, calculated according to the American experience table of mortality, with interest at four and one-half per cent per annum, and in computing such liabilities, capital stock shall not be considered as a liability of the corporation. But no such corporation shall issue new policies if its premium reserve fund with interest at four per cent, calculated according to the actuaries or combined experience table of mortality

is shown to be impaired until the impairment is made good, and the certificate of the superintendent of insurance is issued to it to that effect.

§ 83. **Distribution of surplus to policy holders.**—Any domestic life insurance corporation may ascertain at any given time, and from time to time, the proportion of surplus accruing to each policy from the date of the last to the date of the next succeeding premium payment, and may distribute the proportion found to be equitable either in cash, in reduction of premium or in reversionary insurance, payable with the policy, and upon the same conditions as therein expressed at the next succeeding date of such payment, notwithstanding any thing in the charter of such corporation to the contrary.

§ 84. **Valuation of policies.**—The superintendent of insurance shall annually make valuations of all the outstanding policies, additions thereto, unpaid dividends and all other obligations of every American life insurance corporation doing business in this state, and for the purpose of such valuations and examinations made by him or his authority and of the valuation of registered life and other policies, such valuation shall be on the net premium basis according to the actuaries or combined experience table of mortality, with interest at four per cent per annum.

He may vary the standards of interest and mortality in the case of corporations from foreign countries and in particular cases of invalid lives and other extra hazards, and value policies in groups, use approximate averages for fractions of a year and otherwise, and calculate values by net premiums or otherwise, and accept the valuation of the department of insurance of any other state in place of the valuation herein required, if the insurance officer of such state accepts as sufficient and valid for all purposes the certificate of valuation of the superintendent of insurance of this state.

§ 85. **When actual premium is less than net premium.**—When the actual premium charged for an insurance by any life insurance corporation doing business in this state is less than the net premium for such insurance computed according to the table of mortality and rate of interest prescribed in this article, such corporation shall be charged as a separate liability with the value of an annuity, the amount of which shall equal the difference between such premiums and the term of which in years shall equal the number of future annual payments due on such insurance at the date of the valuation.

§ 86. **What shall be allowed as assets.**—In estimating the

condition of any life insurance corporation, under the provisions of this chapter, or in any examination made by him, or by an examiner appointed by him, the superintendent shall allow as assets only such investments as are authorized by the laws of this state, at the date of examination, and shall charge as liabilities, exclusive of the capital stock, all outstanding indebtedness of the corporation, and the premium reserve on policies, and additions thereto in force computed according to the table of mortality and rate of interest prescribed in this article. Any assets or securities lawfully held or acquired for the satisfaction, reduction or guarantee of any indebtedness to the corporation shall be allowed as assets at their just value in the judgment of the superintendent, but the total assets invested and otherwise of every domestic life insurance corporation shall be held to be accumulations for the exclusive benefit of policy holders, and no payment to stockholders shall be made therefrom until all obligations to policy holders and creditors have been fully provided for, including the reserve required by this chapter to be determined by the superintendent of insurance.

In estimating the condition of any casualty insurance corporation, under the provisions of this chapter, the superintendent shall allow as assets only such investments as are authorized by the existing laws of this state, at the date of its investigation; and shall charge as liabilities, in addition to the capital stock, all outstanding indebtedness of the corporation, and the premium reserve on policies in force, equal to the unearned portions of the gross premiums charged for covering the risks computed on each respective risk from the date of the issuance of the policy.

**§ 87. Restrictions as to dividends removed.**—Any domestic life insurance corporation which by its charter or articles of association is restricted to making a dividend only once in two or more years may hereafter, notwithstanding anything to the contrary in such charter or articles, make and pay over dividends annually, or at longer intervals, in the manner and proportions and among the parties provided for in such charter or articles.

**§ 88. Surrender value of lapsed or forfeited policies.**—Whenever any policy of life insurance issued after January first, eighteen hundred and eighty, by any domestic life insurance corporation after being in force three full years, shall, by its terms, lapse or become forfeited for the non-payment of any premium or any note given for a premium or loan made in cash on such policy as security, or of



any interest on such note or loan, the reserve on such policy computed according to the American experience table of mortality at the rate of four and one-half per cent per annum shall, on demand made, with surrender of the policy within six months after such lapse or forfeiture, be taken as a single premium of life insurance at the published rates of the corporation at the time the policy was issued, and shall be applied, as shall have been agreed in the application or policy, either to continue the insurance of the policy in force at its full amount so long as such single premium will purchase temporary insurance for that amount, at the age of the insured at the time of lapse or forfeiture, or to purchase upon the same life at the same age paid up insurance payable at the same time and under the same conditions, except as to payments of premiums, as the original policy. If no such agreement be expressed in the application or policy, such single premium may be applied in either of the modes above specified at the option of the owner of the policy, notice of such option to be contained in the demand hereinbefore required to be made to prevent the forfeiture of the policy.

The reserve hereinbefore specified shall include dividend additions calculated at the date of the failure to make any of the payments above described according to the American experience table of mortality with interest at the rate of four and one-half per cent per annum after deducting any indebtedness of the insured on account of any annual or semi-annual or quarterly premium then due, and any loan made in cash on such policy, evidence of which is acknowledged by the insured in writing.

The net value of the insurance given for such single premium under this section, computed by the standard of this state, shall in no case be less than two-thirds of the entire reserve computed according to the rule prescribed in this section after deducting the indebtedness as specified; but such insurance shall not participate in the profits of the corporation.

If the reserve upon any endowment policy applied according to the provisions of this section as a single premium of temporary insurance be more than sufficient to continue the insurance to the end of the endowment term named in the policy, and if the insured survive that term, the excess shall be paid in cash at the end of such term, on the conditions on which the original policy was issued.

This section shall not apply to any case where the provisions of the section are specifically waived in the application and notice of such waiver is written or printed in red ink on the margin of the face of the policy when issued.

§ 89. **Discriminations prohibited.**—No life insurance corporation doing business in this state shall make any discrimination in favor of individuals of the the\* same class or of the same expectation of life either in the amount of premium charged or in any return of premium, dividends or other advantages. No agent of any such corporation shall make any contract for insurance or agreement as to such contract other than that which is plainly expressed in the policy issued.

No such corporation or agent thereof shall pay or allow, or offer to pay or allow as an inducement to any person to insure any rebate of premium, or any special favor or advantage whatever, in the dividends to accrue thereon, or any inducement whatever not specified in the policy.

If it shall appear to the satisfaction of the superintendent of insurance, after a hearing by him upon due notice, that any corporation is issuing policies or making contracts that are directly or indirectly in violation of this section, he shall, upon the written approval of the attorney-general, require such corporation and its officers and agents to refrain, within twenty days, from making any such policy or contract.

No such corporation shall make any agreement with any of its officers, trustees or salaried employes whereby it agrees that for any services rendered or to be rendered thereafter by such official, trustee or employe, he shall receive any salary, compensation or emolument that will extend beyond a period of twelve months from the date of such agreement or contract.

If any such corporation, or officer or agent thereof, shall fail to comply with the provisions of this section, the superintendent shall, within twenty days after such failure, publish a notice of the fact in the state paper once a week for four weeks, and institute such proceedings in law as may be necessary to restrain such violation of this section.

§ 90. **Discriminations against colored persons prohibited.**—No life insurance corporation doing business within this state shall make any distinction or discrimination between white persons and colored persons, wholly or partially of African descent, as to the premiums or rates charged for policies upon the lives of such persons, or in any other manner whatever; nor shall any such corporation demand or require a greater premium from such colored persons than is at that time required by such corporation from white persons of the same age, sex, general condition of health and prospect of longevity; nor shall any such corporation make or require

any rebate, diminution or discount upon the amount to be paid on such policy in case of the death of such colored persons insured, nor insert in the policy any condition, nor make any stipulation whereby such person insured shall bind himself, or his heirs, executors, administrators and assigns to accept any sum less than the full value or amount of such policy in case of a claim accruing thereon by reason of the death of such person insured, other than such as are imposed upon white persons in similar cases; and any such stipulation or condition so made or inserted shall be void.

§ 91. **Certificate of authority of agents.**— No person shall act as agent, subagent or broker, in the solicitation or procurement of applications for insurance or for any policy of insurance, for any life insurance corporation doing business in this state, without first procuring from the superintendent of insurance a certificate of authority, which must be renewed annually on the first day of January, or within sixty days thereafter, and a duplicate of which shall be filed in the office of the superintendent.

Agents operating solely for companies transacting industrial or prudential insurance on the weekly payment plan of insurance are exempted from the provisions of this section.

On the conviction of any person acting as agent, subagent or broker, of the commission of any act which is a violation of any of the provisions of this and the preceding section, the superintendent shall immediately revoke the certificate of authority issued to him and no such certificate shall thereafter be issued to such convicted person by the superintendent for three years from the date of his conviction.

§ 92. **No forfeiture of policy without notice.**— No life insurance corporation doing business in this state shall declare forfeited, or lapsed, any policy hereafter issued or renewed, and not issued upon the payment of monthly or weekly premiums, or unless the same is a term insurance contract for one year or less, nor shall any such policy be forfeited, or lapsed, by reason of non-payment when due of any premium, interest or installment or any portion thereof required by the terms of the policy to be paid, unless a written or printed notice stating the amount of such premium, interest, installment, or portion thereof, due on such policy, the place where it should be paid, and the person to whom the same is payable, shall be duly addressed and mailed to the person whose life is insured, or the assignee of the policy, if notice of the assignment has been given to the corporation, at his or her last known post-office address, post-

age paid by the corporation, or by an officer thereof, or person appointed by it to collect such premium, at least fifteen and not more than forty-five days prior to the day when the same is payable.

The notice shall also state that unless such premium, interest, installment, or portion thereof, then due, shall be paid to the corporation, or to a duly appointed agent or person authorized to collect such premium by or before the day it falls due, the policy and all payments thereon will become forfeited and void except as to the right to a surrender value or paid-up policy as in this chapter provided.

If the payment demanded by such notice shall be made within its time limited therefor, it shall be taken to be in full compliance with the requirements of the policy in respect to the time of such payment; and no such policy shall in any case be forfeited or declared forfeited, or lapsed, until the expiration of thirty days after the mailing of such notice.

The affidavit of any officer, clerk or agent of the corporation, or of any one authorized to mail such notice, that the notice required by this section, has been duly addressed and mailed by the corporation issuing such policy shall be presumptive evidence that such notice has been duly given.

### ARTICLE III.

#### FIRE INSURANCE CORPORATIONS.

##### SECTION 110. Incorporation.

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**§ 110. Incorporation.**—Thirteen or more persons may become a corporation for the purpose of making insurances on dwelling houses, stores and all kinds of buildings and household furniture, and other property against loss or damage by fire, lightning, wind storms or tornadoes, and upon vessels, boats, cargoes, goods, merchandise, freights and other property against loss or damage by all or any of the risks of lake, river, canal and inland navigation and transportation, and to effect reinsurance of any risks taken by it, by filing in the office of the superintendent of insurance a declaration signed by all of them of their intention to form a corporation for the purpose of transacting the business of making any or all of such insurances, which shall comprise a copy of the charter proposed to be adopted by them, setting forth the name of the corporation, the place of location of its office, the mode in which its corporate powers are to be exercised and its directors elected, a majority of whom shall be citizens of this state, and if a stock corporation, the owner in his own right, of at least five hundred dollars of the stock of the corporation at its par value, the mode of filling vacancies in the office of director, the period for the commencement and termination of its fiscal year and the amount of capital to be employed in the transaction of its business.

No such declaration shall be filed, unless the persons signing the same shall have previously published for at least two weeks successively a notice of their intention to form such a corporation in a public newspaper in the county where its office is to be located.

Every such corporation shall be known as a fire insurance corporation. No such corporation shall directly or indirectly deal or trade in buying or selling any goods, wares, merchandise or other commodities whatever, except such articles as may be insured by it, and are claimed to be damaged by any cause so insured against.

**§ 111. Mutual fire insurance corporations.**—No domestic mutual fire insurance corporation shall commence business if located

in the city of New York, or in the county of Kings, nor establish any agency for the transaction of business in either of such counties, until agreements have been entered into for insurance with four hundred applicants, the premiums on which shall amount to two hundred thousand dollars, of which forty thousand dollars shall have been paid in in cash, and notes of solvent parties, founded on actual and bona fide applications for insurance, shall have been received for the remainder. No such corporation in any other county of the state shall commence business until agreements have been entered into for insurance with at least two hundred applicants, the premiums on which shall amount to one hundred thousand dollars, of which twenty thousand dollars shall have been paid in in cash, and notes of solvent parties founded on actual and bona fide applications for insurance shall have been received for the remainder.

No one of such notes shall amount to more than five hundred dollars. No two shall be given for the same risk, or be made by the same person or firm, except where the whole amount of such notes shall not exceed five hundred dollars. No such note shall be represented as capital stock unless a policy be issued upon the same within thirty days after the organization of the corporation upon a risk which shall be for no shorter period than one year. Such notes shall be called capital stock notes and shall be payable in part or in whole at any time when the directors shall deem the same requisite for the payment of losses and such incidental expenses as may be necessary for transacting the business of the corporation. No note shall be received as a capital stock note unless accompanied by a certificate of a justice of the peace or supervisor of the town or city where the person making it shall reside that the maker is in his opinion pecuniarily good and responsible for the same. No such note shall be valid as a capital stock note, unless the corporators or officers of such corporation shall certify under oath that it is the bona fide property of the corporation.

§ 112. Subscriptions to capital.— Upon filing in the office of the superintendent of insurance the declaration and copy charter and proof of publication of notice of intention to form a corporation as hereinbefore required, which proof of publication shall be made by the affidavit of the publisher of the newspaper in which the notice was published, or his foreman or clerk, such corporation, if a stock corporation, may open books for subscription to its capital stock and keep the same open until the full amount specified in the charter is subscribed. If it is a mutual insurance corporation, it



may open books to receive propositions and enter into agreements and receive capital stock notes in the manner and to the extent specified in this article.

§ 113. **Capital stock notes and deposit notes.**—All capital stock notes of any domestic mutual fire insurance corporation shall remain as security for all losses and claims, until the accumulation of profits invested as required by law shall equal the amount of cash capital required to be possessed by stock fire insurance corporations, the liability of each note decreasing proportionately as the profits are accumulated. Any note which may have been deposited with any mutual fire insurance corporation subsequent to its organization in addition to the cash premium on any insurance effected with such corporation, may, at the expiration of the time of such insurance, be relinquished and given up to the maker thereof or his representative, upon his paying his proportion of all losses and expenses which may have accrued thereon during such term. The directors of any such corporation shall have the right to determine the amount of the note to be given in addition to the cash premium by any person insured therein, but in no case shall the note be more than five times the whole amount of the cash premium, and every person effecting insurance in any mutual fire insurance corporation, and his heirs, executors, administrators and assigns continuing to be so insured, shall thereby become members of the corporation during the period of insurance, and shall be bound to pay for losses and necessary expenses accruing in and to such corporation in proportion to the amount of his deposit note or notes.

§ 114. **May unite cash capital as an additional security.**—Any domestic mutual fire insurance corporation may unite a cash capital to any extent as an additional security to its members, over and above their cash premiums and premium notes. Such cash capital shall not be less than thirty thousand dollars, and shall be invested as capital of stock fire insurance corporations is required to be invested. The corporation may allow interest on such cash capital, and a participation in its profits, and prescribe the liability of the owners thereof to share in the losses of the corporation, and such cash capital shall be liable as the cash capital of the corporation in the payment of its debts. Such cash capital shall in all cases be paid in at the organization of the corporation, and satisfactory evidence of that fact furnished to the superintendent before it shall be authorized to do business.

.Any existing joint-stock fire insurance corporation, and any corpo-

ration formed under this article, may, upon obtaining the written consent of the holders of three-fourths in amount of its stock, permit the insured to participate in the profits of the business of such corporation, and provide how far any scrip issued to the insured for such profits shall be liable for the losses to be sustained. Whenever an amount not less than one hundred thousand dollars has been accumulated, and scrip issued therefor, the corporation may, with the written consent of the holders of three-fourths in amount of its stock, pay off and cancel an amount of the original cash capital equal to one-half of the accumulated profits, and so may continue from time to time until the whole amount of the original cash capital is paid off. Before any portion of such capital stock shall be so paid off, proof shall be made to the superintendent and certified by him to be satisfactory, that an amount of accumulated profits has been realized, scrip issued therefor, and investments made thereof in the manner required in this chapter, at least equal to double the amount so desired to be paid off and canceled.

§ 115. **Deposit notes and cash payments by members of mutual corporations.** — Every person becoming a member of any domestic mutual fire insurance corporation by effecting insurance therein, shall, before he receives his policy, deposit his promissory note for such a sum of money as shall be determined by the directors of the corporation. Such part of such note, not exceeding twenty per cent, as shall be required by the by-laws of the corporation, shall be immediately paid, and the remainder of such deposit note shall be payable in whole or in part, as the exigencies of the corporation shall require for the payment of losses by fire and incidental expenses of the corporation. At the expiration of the term of insurance such note, or the part thereof which shall remain unpaid after receiving thereon from the maker a proportionate share for all losses or expenses occurring during such term, shall be relinquished by the corporation to the maker, and the corporation may loan such portion of the money received upon any such note or from any such member as may not be immediately wanted for its use, if the same shall be secured by a bond and a mortgage on unincumbered real property of double the value of the sum loaned.

§ 116. **Assessments in mutual corporations.** — The directors shall, as often as they deem necessary, after receiving notice of any loss or damage by fire sustained by any member, and ascertaining the same, or after the rendition of any judgment against the corporation for loss or damage, settle and determine the sums to be paid

by the several members thereof as their respective portion of such loss, and publish the same in such manner as they shall see fit or as the by-laws shall have prescribed. The sum to be paid by each member shall always be in proportion to the original amount of his note or notes, and shall be paid to the officers of the corporation within thirty days next after the publication of such notice. If any member shall, for the space of thirty days after such publication and after personal demand for payment shall have been made, neglect or refuse to pay the sum so assessed upon him, the directors may sue for and recover the whole amount of his note or notes, with costs of suit, but execution shall only issue for assessments and costs as they accrue, and every such execution shall be accompanied by a list of the losses for which the assessment is made.

If the whole amount of notes shall be insufficient to pay the loss occasioned by any fire or fires, in such case the sufferers insured by the corporation shall receive, toward making good their respective losses, a proportional share of the whole amount of such notes according to the sums by them respectively insured. No member shall ever be required to pay for any loss occasioned by fire or inland navigation more than the whole amount of his note. Any such corporation may receive from any person applying for insurance, in lieu of a deposit note, the whole amount in cash for the premium therefor, without subjecting such person to any other or additional liability, or in any way impairing or changing the obligation of the corporation or affecting the rights of any person interested therein.

§ 117. **How surplus profits to be estimated.**—In estimating the surplus profits of any fire insurance corporation for the purpose of making any dividend upon its capital stock, there shall be reserved from such profits a sum equal to the whole amount of premiums on unexpired risks and policies, and all sums due the corporation on bonds and mortgages, bonds, stocks and book accounts, of which no part of the principal or interest thereon has been paid during the last year, and for which foreclosure or suit has not been commenced for collection or which, after judgment obtained thereon, shall have remained more than two years unsatisfied, and on which interest shall not have been paid, and all interest due or accrued and remaining unpaid. Any corporation may declare dividends not exceeding ten per centum on its capital stock in any one year, if in addition to the amount of its capital stock, and of such dividend, and all actual outstanding liabilities it shall have accumulated and be in possession of a fund equal to the amount of all unearned premiums on risks not terminated at the time of making such dividend.

Any dividend made contrary to the provisions of this section shall work a forfeiture of the charter of the corporation, and each stockholder receiving any such dividend shall be liable to the creditors of the corporation to the extent of the dividend received in addition to the other penalties and punishments prescribed by law. This section shall not apply to the declaration of scrip dividends by participating corporations. No such scrip dividends shall be paid, except from the surplus profits, after reserving all sums as above provided, including the whole amount of unearned premiums on unexpired risks. And whenever any fire insurance corporation shall have accumulated and be in possession of a fund in addition to the amount of its capital stock, and all actual outstanding liabilities in excess of one-half of the amount of all premiums on risks not terminated such corporation may increase its capital stock from such fund; and distribute such increase pro rata to the stockholders of such corporation, provided, always, that such increase shall be equal to at least twenty-five per centum of the original capital stock of said corporation and shall have been approved by the superintendent of the insurance department and authorized by at least three-fourths of the board of directors of such corporation, and provided, also, that any such corporation may hereafter make and declare a dividend as provided by this chapter.

**§ 118. Allowance of assets and estimation of liabilities upon examinations.**—When an examination is made by the authority of the superintendent of insurance into the affairs of any fire insurance corporation doing business in this state, or when such corporation renders a statement to the insurance department, there shall not be allowed as assets any investments which are not held as prescribed by law at the date of such examination or rendering such statement; but unpaid premiums on policies written within three months shall be admitted as available resources. In estimating its liabilities, there shall be charged, in addition to the capital stock and all outstanding claims, a sum equal to the total unearned premiums on the policies in force, calculated on the gross sum without any deduction on any account, charged to the policy-holder on each respective risk from the date of the issue of the policy.

**§ 119. Liability of directors and corporators.**—The directors and corporators of any corporation organized under this article, and those entitled to a participation of the profits of such corporation, shall be jointly and severally liable for all debts or liabilities of such corporation, until the whole amount of the capital of the corporation

shall have been paid in in cash, and a certificate has been issued to it by the superintendent authorizing it to do business in this state.

§ 120. **What to appear on face of policy.**— Every domestic mutual fire insurance corporation shall embody the word “mutual” in its title, which shall appear on the first page of every policy and renewal receipt. Every fire insurance corporation doing business as a cash stock corporation shall upon the face of its policy in some suitable manner express that such policy is a policy in a stock corporation.

§ 121. **Standard fire insurance policy to be prescribed and used.**— The printed blank form of a contract or policy of fire insurance, with such provisions, agreements or conditions as may be indorsed thereon or added thereto and form a part of such contract or policy, heretofore filed in the office of the secretary of state by the superintendent of insurance or by the New York board of fire underwriters, pursuant to the provisions of chapter 488 of the laws of 1886 shall be known and designated as the “standard fire insurance policy of the state of New York.”

No fire insurance corporation, its officers or agents, shall make, issue or deliver for use, any fire insurance policy or the renewal of any such policy on property in this state, other than such as shall conform in all particulars as to blanks, size of type, context, provisions, agreements and conditions with such printed blank form of contract or policy filed in the office of the secretary of state; and no other or different provision, agreement, condition or clause shall be in any manner made a part of such contract or policy, or indorsed thereon or delivered therewith, except as follows, to wit:

First. The name of the corporation, its location and place of business, date of its incorporation or organization, whether it is a stock or mutual corporation, the names of its officers, the number and date of the policy, and if issued through a manager or agent the words “this policy shall not be valid until countersigned by the duly authorized manager or agent of the corporation at.....”

Second. Printed or written forms of description and specification, or schedules of the property covered by any particular policy, and any other matter necessary to clearly express all the facts and conditions of insurance on any particular risk not inconsistent with or a waiver of any of the conditions or provisions of the standard policy herein provided for.

Third. With the approval of the superintendent of insurance, if the same is not already included in such standard form, any pro-

vision which any such corporation is required by law to insert in its policies, not in conflict with the provisions of such standard form.

Such provisions shall be printed apart from the other provisions, agreements or conditions of the policy under a separate title as follows: "Provisions required by law to be stated in this policy."

The name, with the word "agent" or "agents," and place of business, of any insurance agent or agents, either by writing, printing, stamping or otherwise, may be indorsed on the outside of such policies.

**§ 122. Payment of return premiums on cancellation of policy.**—Any corporation, person, company or association transacting the business of fire insurance in this state shall cancel any policy of insurance upon the request of the insured or his legal representatives, and shall return to him or to such representative the amount of premium paid, less the customary short rate premium for the expired time of the full term for which the policy has been issued or renewed, notwithstanding anything in the policy to the contrary. Where the laws of any state permit corporations organized under its laws to cancel policies of insurance upon different terms than herein set forth, corporations organized under the laws of this state may cancel policies upon risks in any such state upon the same terms as are provided for corporations organized under its laws.

**§ 123. Cancellation of policies by receiver and issue of certificates of indebtedness.**—The receiver of any domestic fire insurance corporation, on the receipt by him of any policy of the corporation in force, and upon the written request of the policy-holder, shall cancel such policy and issue in lieu thereof, a certificate of indebtedness as such receiver to the policy-holder for the amount of the premium paid less the proportion of premium for the expired time of the full term for which the policy has been issued or renewed, and upon the receipt of such certificate by the policy-holder, the policy shall become null and void, notwithstanding anything in the policy to the contrary. The receiver, in his report of the liabilities of the corporation to the insurance department, shall state the total amount of such outstanding certificates of indebtedness not canceled at the date of the report.

**§ 124. Extension of joint-stock corporations.**—Any existing domestic joint-stock fire insurance corporation and any corporation organized under this article, having a capital of at least two hundred thousand dollars may, without increasing its capital, at any time within two years previous to the termination of its charter,



after giving notice at least once a week for six weeks successively in a newspaper published in the county where such corporation is located of such intention, and with a declaration under its corporate seal, signed by the president and two-thirds of its directors, of their desire for such extension, extend the term of its original charter for a period of thirty years, by altering and amending the same so as to accord with the provisions of this article, and filing a copy of such amended charter with such declaration in the office of the superintendent of insurance; whereupon the same proceedings shall be had as are required upon the incorporation of a corporation under this article.

§ 125. **Mutual may become joint stock corporations.**—Any domestic mutual fire insurance corporation having surplus assets aside from premium and capital stock notes sufficient to reinsure all its outstanding risks, after having given notice once a week for six weeks of its intention to do so, and of the meeting hereinafter provided for, in the state paper and in a newspaper published in the county where such corporation is located, may, with the consent of two-thirds of the members present at any regular annual meeting, or at any special meeting duly called for the purpose, or with the consent in writing of two-thirds of the members of such corporation, and the consent of three-fourths of its directors, unless otherwise provided in its charter, become a joint-stock corporation, by conforming its charter to and otherwise proceeding in accordance with this chapter. Every member of such corporation on the day of such annual or special meeting, or the date of such written consent, shall be entitled to priority in-subscribing to the capital stock of such corporation for one month after the opening of the books of subscription, in proportion to the amount of cash premiums paid in by such member, on unexpired risks in force on the day of such annual or special meeting, or the date of such written consent.

Every corporation so extended or changed shall come under the provision of this chapter in the same manner as if it had been incorporated originally thereunder.

§ 126. **Extension of term of charter of mutual corporations.**—Every domestic mutual fire insurance corporation, having a capital in premium notes of an amount required of such a corporation incorporated under this article, may at any time within two years previous to the termination of its charter, after giving notice once a week for six weeks successively in a newspaper published in the county where such corporation is located of such intention, and with

a declaration, under its corporate seal, signed by its president and two-thirds of its directors, of their desire for such extension, extend the term of its original charter for a period of thirty years, by altering and amending the same so as to accord with the provisions of this chapter, and filing a copy of such amended charter and declaration in the office of the superintendent of insurance ; whereupon the same proceedings shall be had as are required upon the formation of a corporation under this article, except as to its capital, which shall be certified to be in accordance with the provisions of this section. Every corporation so extended shall come under the provisions of this chapter in the same manner as if it had been incorporated originally thereunder. Every fire insurance corporation which has heretofore changed from a mutual to a joint-stock corporation, pursuant to the provisions of law, shall be deemed and be held by such change to have continued and extended its charter for the period named therein, not exceeding thirty years from the time of such change.

§ 127. **Existing corporations may reincorporate.**—Any domestic fire insurance corporation may change its name, increase the amount of its capital, or avail itself of any powers conferred by the provisions of this chapter upon filing with the superintendent of insurance proof of publication of a notice of its intention to do so once a week for six successive weeks in the state paper and in a newspaper published in the county where its office is located, and if a stock corporation, the written consent of three-fourths in amount of its stockholders ; or, if a mutual corporation, the unanimous consent of its directors unless otherwise provided in its charter ; and a declaration under its corporate seal, signed by its president and directors, of its desire to do so, and upon obtaining and filing with the superintendent his consent thereto. It shall thereupon file with the superintendent and in the office of the clerk of the county where its office is located a copy of its charter so altered or amended, and upon the same proceedings being thereafter had as are required by this chapter upon the formation and organization of an insurance corporation under this article, it shall be deemed and be held to be incorporated under the provisions of this article.

§ 128. **Duration of charter.**—Every fire insurance corporation incorporated or extended under this chapter shall continue in existence for the term specified in its charter, not exceeding thirty years.

§ 129. **Merger of fire insurance corporations.**—Any two fire insurance corporations organized under any general law of the state may merge such corporations into one corporation. For that pur-

pose the directors of the corporations may enter into and make an agreement under their respective corporate seals for such merger, prescribing its terms and conditions, the mode of carrying it into effect, the amount of capital, which shall not be larger in amount than the aggregate amount of capital of the two corporations, the number of shares into which it is to be divided with such other particulars as they may deem necessary, not inconsistent with law. Such agreement must be assented to by a majority of the number of directors of each corporation prescribed in its charter, and by one-half of the stockholders owning two-thirds of the stock of each corporation, and may be executed in duplicate. Every such agreement must have the approval of the superintendent of insurance.

Upon filing such agreement, with such assent of the directors and stockholders and approval of the superintendent, or as duplicate thereof, in the office of the clerk of the county where the office of the corporation is located, and in the office of the superintendent, such corporations shall be merged into the corporation provided for in the agreement. The details of such agreement shall be carried into effect as provided therein. The corporation may require the return of the original certificates of stock held by each stockholder in each of the merging corporations, and issue in lieu thereof new certificates for such number of shares of its own stock as such stockholders may be entitled to receive.

Upon such merger, all the rights, franchises and interests of the merging corporations in and to every species of property and things in action belonging to them, or either of them, shall be deemed to be transferred to and vested in the new corporation, without any other deed or transfer, and the new corporation, shall hold and enjoy the same to the same extent as if the merging corporations, or either of them, should have continued to retain the title and transact business. The new corporation shall succeed to all the obligations and liabilities of the merging corporations, or either of them, and shall be held liable to pay and discharge all such debts and liabilities in the same manner as if they had been incurred or contracted by it. The stockholders of the merging corporations shall continue subject to all the liabilities, claims and demands existing against them, or either of them, at or before such merger.

No action or proceeding pending at the time of merger, in which either or both of the merging corporations may be a party, shall abate or discontinue by reason of the merger, but the same may be prosecuted to final judgment in the same manner as if the merger

had not taken place, or the new corporation may be substituted in place of any corporation so merged by order of the court in which the action or proceeding may be pending.

§ 130. **Guaranty and special reserve funds.**— Any domestic fire insurance corporation may create a guaranty surplus fund and a special reserve fund upon the adoption of a resolution by its board of directors at a regular meeting, and upon filing with the superintendent of insurance a copy thereof, declaring their desire and intention to create such funds and to do business under this and the two following sections. The superintendent shall thereupon make or cause to be made an examination of such corporation, and he shall make a certificate of the result thereof, which shall particularly set forth the amount of surplus funds held by it at the date of the examination, which, under the provisions of this section may be equally divided between and set apart to constitute guaranty surplus and special reserve funds, which certificate shall be recorded in the insurance department.

Thereafter all policies and renewals of policies issued by such corporation shall have printed thereon by it a notice that they are issued under and in pursuance of this and the two following sections of the insurance law referring to the same by the numbers of sections, and all such policies and renewals shall be subject to the provisions of such sections. After the passage and filing of such resolution, the corporation shall not make, declare or pay in any form any dividend upon its capital stock exceeding seven per cent per annum thereon, and upon the surplus funds to be formed thereunder, until after its guaranty surplus fund and its special reserve fund shall have together accumulated to an amount equal to its capital stock; and until such funds shall together amount to a sum equal to its capital stock, the entire surplus profits of the corporation above such annual dividend of seven per cent shall be equally divided between and be set apart to constitute such guaranty surplus and special reserve funds, which funds shall be held and used as hereinafter provided and not otherwise. Any such corporation which shall declare or pay any dividend contrary to the provisions herein contained, shall be deemed to have forfeited its charter.

In estimating the profits of any such corporation for the purpose of making a division thereof between the guaranty surplus fund and the special reserve fund, until such funds shall together amount to a sum equal to its capital stock, there shall be deducted from the gross assets of the corporation, including for this purpose the

amount of the special reserve fund, the sum of the following items:

1. The amount of all outstanding claims.
2. An amount sufficient to meet the liability of the corporation for the unearned premiums upon its unexpired policies, which shall be at least equal to the unearned premiums on policies having one year or less to run, and a pro rata proportion of the premiums received on the policies having more than one year to run, and shall be known as the reinsurance liability.
3. The amount of its guaranty surplus fund and its special reserve fund.
4. The amount of its capital.
5. Interest at the rate of seven per cent per annum upon the amount of its capital and of such funds for whatever time shall have elapsed since the last preceding cash dividend.

The balance shall constitute the net surplus of the corporation subject to the equal division between the funds as herein provided. When the corporation shall notify the superintendent of insurance that it has fulfilled the requirements of this section, and that its guaranty surplus fund and its special reserve fund, taken together, equal its capital stock, he shall make an examination of the corporation and make a certificate of the result thereof; and thereafter such corporation may continue, out of any subsequent profits of its business, to add to such funds, either the whole or only a part thereof, but when any addition is made to the special reserve fund, an equal sum shall be carried to the guaranty surplus fund.

§ 131. **Funds, how invested.**— Such guaranty surplus fund shall be held and invested by such corporation in the same manner as its capital stock and surplus accumulations, and shall be liable and applicable in the same manner as the capital of the corporation to the payment generally of its losses. Such special reserve fund, until it shall amount to a sum equal to one-half of the capital stock, shall be invested in the same manner as the capital of the corporation, and any additional sum added to such fund shall be invested in any securities in which the corporation is by law authorized to invest its capital or its surplus accumulations, and shall be deposited from time to time, as the same shall accumulate and be invested, with the superintendent of insurance.

Such special reserve fund shall be deemed a fund contributed by the stockholders to protect such corporation and its policy-holders other than claimants for losses already existing or then occurred, in case of any extraordinary conflagration or conflagrations as herein-

after mentioned, and shall not be regarded as any part or portion of the assets of the corporation so as to be liable for any claim for loss by fire or otherwise, except as herein provided.

**§ 132. Proceedings in case of extensive conflagrations. —** When any extensive conflagration or conflagrations shall occur whereby the claims upon the corporation shall exceed the amount of its capital stock and of the guaranty surplus fund hereinbefore provided, the corporation shall notify the superintendent of insurance of the fact, who shall then make or cause to be made, an examination of the corporation, and shall issue his certificate in duplicate of the result, showing the amounts of capital, of guaranty surplus fund, of special reserve fund, of reinsurance liability, and all other assets.

One of such certificates shall be given the corporation, and the other shall be recorded in the insurance department. Such special reserve fund shall be immediately held to protect all policy-holders of the corporation other than such as are claimants upon it at the time, or such as become claimants in consequence of such conflagration or conflagrations.

The amount of such special reserve fund, and an amount equal to the unearned premiums of such corporation, to be ascertained as hereinbefore provided, shall constitute the capital and assets of such corporation for the protection of policy-holders other than such claimants, and for the further conduct of its business. Such certificate of the superintendent shall be binding and conclusive upon all parties interested in the corporation, whether stock-holders, creditors or policy-holders. Upon the payment to the claimants for losses or otherwise, existing at the time of or caused by such general conflagration or conflagrations, of an amount to which they are respectively entitled in proportion to their several claims, of the full sum of the capital of the corporation and of its guaranty surplus fund, and of its assets, except only such special reserve fund and an amount of its assets equal to the liability of the corporation for unearned premiums, as so certified by the superintendent, such corporation shall be forever discharged from any and all further liability to such claimants and to each of them.

The superintendent shall, after issuing such certificate, upon the demand of the corporation, transfer to it all such securities as shall have been deposited with him by it as such special reserve fund. If the amount of such special reserve fund shall be less than fifty per cent of the full amount of the capital of the corporation, a requisition shall be issued by the superintendent upon the stockhold-



ers to make up the capital to that proportion of its full amount, in the manner now provided by law in the case of a corporation with impaired capital. Any capital so impaired shall be so made up to at least the sum of two hundred thousand dollars. If the corporation, after such requisition, shall fail to make up its capital to at least such amount as herein directed such special reserve fund shall be held as security and liable for all losses occurring upon policies of such corporation after such conflagration or conflagrations. If any amount greater than a sum equal to one-half of its capital stock shall by such corporation, under the provisions of the two preceding sections, have been deposited with such superintendent, he shall retain of such securities a sum equal to one-half of the amount he shall so hold thereof in excess of such one-half of the capital stock, and transfer the balance thereof to the corporation as herein provided. The amount so transferred to the corporation shall, from the time of such transfer, if not less than two hundred thousand dollars, constitute the capital stock of the corporation for the further conduct of its business as hereinbefore provided. The sum so retained by the superintendent shall thenceforth constitute the special reserve fund of the corporation, to which additions may be made as herein provided, and shall be held in the same manner, for the same purposes and under the same conditions as the original special reserve fund of the corporation was held. The corporation shall in its annual statement to the insurance department set forth the amount of such special reserve fund and of its guaranty surplus fund. If in consequence of the payment of losses by fires, or of the expenses of the business, or of the interest payable under the provisions of this act to stockholders, or from any cause, the guaranty surplus fund shall be reduced in amount below the amount of the special reserve fund, the directors of the corporation shall have the right, at their option, at the time of making any division of the net profits as herein provided, to carry a larger sum to the guaranty surplus fund than to the special reserve fund; but this privilege shall cease when the two funds are made equal in amount.

The policy registers, insurance maps, books of record and other books in actual use by the corporation in its business, are not to be considered as assets, but shall be held by it for its use in the protection of its policy-holders not claimants for losses at the time of such general conflagration. If after the accumulation of such special reserve fund, it shall appear upon examination by the superintendent that the capital of the corporation has, in the absence of any such

extensive conflagration, become impaired, he shall order a call upon the stockholders to make up such impairment, and the board of directors may either comply with such order and require the necessary payments of the stockholders, or, at their option, they may apply for that purpose so much of such special reserve fund as will make such impairment good. No corporation doing business under this and the two preceding sections shall insure any larger amount upon any single risk than is permitted by law to a corporation possessing the same amount of capital irrespective of the funds hereinbefore provided for.

§ 133. **Payment of tax by agents of foreign fire insurance corporations to fire departments.**—Except in the cities of New York and Buffalo there shall be paid to the treasurer of the fire department of every city or village of this state, whether incorporated or unincorporated, having a fire department, company or organization, for the use and benefit of such department, or to the treasurer of such fire department within the fire limits, as established by law, of an unincorporated village, and when no treasurer of a fire department exists, then to the treasurer or other fiscal officer of such city or village, or in case of an unincorporated village to the supervisor of the town in which such village is situated who, for the purposes of this act, shall have the same powers as the treasurers of fire departments, on the first day of February of each year, by every person who shall act as agent for or on behalf of any foreign fire insurance corporation, association or individuals which insure property against loss or injury by fire, the sum of two dollars upon the hundred dollars, and at that rate, upon the amount of all premiums which during the year or part of a year ending on the last preceding thirty first day of December shall have been received by such agent or person, or received by any other person for him, for any insurance effected or procured by him as such agent or broker against loss or injury by fire upon property situate within the corporate limits of such city or village, or within the fire limits of such unincorporated village.

§ 134. **Undertaking of agent.**—No person shall, as agent for any such foreign insurance corporation, association or individuals, effect any insurance upon any property situate in any city or village of this state upon which the sums specified in the preceding section are required to be paid, or as such agent procure such insurance to be effected, until he shall have executed and delivered to the officer to whom such account is to be rendered and such payments to be

made, a bond to such fire department in the penal sum of five hundred dollars, with such sureties as such treasurer, supervisor or other fiscal officer shall approve, with a condition that he will annually render to such treasurer, supervisor or other fiscal officer, on the first day of February in each year a just and true account, verified by his oath that the same is true, of all premiums which, during the year ending on the thirty-first day of December preceding such report, shall have been received by him or any other person for him, for any insurance against loss or injury by fire upon property situated in such city or village, which shall have been effected or procured by him to have been effected by any such corporation, association or individuals, and that he will annually, on the first day of February in each year, pay to such treasurer or supervisor or other fiscal officer two dollars upon every hundred dollars, and at that rate upon the amount of such premiums. Any such corporation, association or individual, having authority to transact business in this state, on filing a bond in the penal sum of two thousand five hundred dollars with the superintendent of insurance that it will make its account and pay the sums so required to be paid, may effect such insurance in any city, town or village wherein it has no agent.

§ 135. **Penalty for refusal to pay.**—Every such person who shall effect any such insurance without having executed and delivered such bond, shall, for each offense, forfeit two hundred dollars, for the use and benefit of the fire department of such city or village, to be collected by and in the name of the fire department, treasurer or chief fiscal officer of the city or village in which the property insured is situated. The treasurer or chief fiscal officer of any city or village having no incorporated firemen's relief or benevolent society receiving any money under the laws of this state, shall, on or before the fifteenth day of February in each year, apportion and pay over all such moneys so received to the treasurers of such of the several fire companies as are duly recognized by the common council, trustees or supervisors of such city or village.

If he shall neglect or refuse to perform any or all of the duties required by this section, he shall forfeit the sum of two hundred dollars for every such neglect or refusal for the use and benefit of the fire department of such city or village, and the foreman of any fire company may sue for and maintain an action in the name of and for the benefit of such company for its proportion of the penalties prescribed by this section.

§ 136. **Penalty for refusal to exhibit foreign fire policies.**—Every person whose property shall be insured in violation of sec-

tion 135 of this chapter, and every person having the care or charge of property so insured, or of policies of insurance placed in violation of such section, as agent or trustee for another, who shall refuse or neglect to exhibit to the officer, entitled by section 134 of this chapter to receive the per cent of premium in such section provided, all policies so placed upon such property, or shall neglect or refuse to give such officer full information as to when, by whom, and in what corporation or corporations such property shall be so insured, and the name of the agent, broker or other person connected with the effecting of such insurance, upon demand being duly made by such officer shall become liable to an action by and in the name of the fire department, organization or company of which such officer shall be the treasurer, for the sum of one hundred dollars for each such neglect or refusal.

All persons acting as brokers between any such agent or any such corporation and the assured, shall, within ten days after effecting any insurance specified in section 135, notify the officer entitled to receive the tax upon the premium upon such insurance of the fact of such insurance, together with the precise location of the property, the name of the insurer and the amount of the premium to be paid by the assured. Any broker willfully neglecting or refusing to comply with the provisions of this section, shall be liable to a like action and like penalty brought in the like manner hereinbefore provided. Actions brought under this section must be tried in the county in which the property alleged to be so insured is situated.

All moneys received pursuant to this section shall be apportioned and paid over in the same manner as provided in the preceding section of this chapter for the apportionment and payment of moneys received pursuant to such section and under a like penalty.

§ 137. License to agents in excepted cases.—The superintendent of insurance, in consideration of the yearly payment of two hundred dollars, except in counties having less than one hundred thousand inhabitants, in which case the fee shall not exceed twenty-five dollars, may issue to citizens of this state, not exceeding two hundred in number, a license revokable at any time, permitting the party named in such license to act as agent to procure policies of fire insurance in corporations which are not authorized to do business in this state.

Before any insurance shall be procured under or by virtue of said license, there shall be executed by the licensed agent and by the party desiring insurance an affidavit in duplicate, one of which shall

be filed in the insurance department and the other in the clerk's office of the county in which the property proposed to be insured is located; within thirty days after the procuring of such insurance. Such affidavits shall set forth that the party desiring insurance is after diligent effort unable to procure the amount required to protect the property owned or controlled by him from the insurance corporations duly authorized to transact business in this state.

The agent procuring policies in such authorized corporations shall keep a separate account thereof, open at all times to the inspection of the superintendent, showing, first, the exact amount of such insurance placed for any party; second, the gross premiums charged thereon; third, in what corporation; fourth, the date of the policy; and fifth, the term thereof.

Each party receiving such license shall, before transacting business thereunder, execute and deliver to the superintendent a bond to the people of the state in the penal sum of two thousand dollars, with such sureties as the superintendent shall approve, conditioned that the said agent will faithfully comply with all the requirements of this chapter, and will pay to the superintendent, or where such policies cover risks in cities or villages having a fire patrol or salvage corps, to the treasurer of such fire patrol or salvage corps, in January and July of each year, at the rate of three per cent upon the amount of gross premiums charged to policy-holders upon all policies procured by him during the preceding six months.

All fire insurance policies issued to residents of this state on property located herein by companies that have not complied with the requirements of the general insurance laws of the state, shall be void, except such as have been provided as herein set forth.

## ARTICLE IV.

### MARINE INSURANCE CORPORATIONS.

#### SECTION 150. Incorporation.

- 151. Subscriptions to stock.
- 152. Restrictions as to capital stock and premium notes.
- 153. Increase of capital by mutual corporations.
- 154. Cash capital of mutual corporations.
- 155. Rights and liabilities of holders of cash capital.
- 156. Certificates convertible into stock
- 157. Amendment of charter.
- 158. Extension of charter.
- 159. Change in plan of insurance.
- 160. Charges for insurance upon the canals of the state.
- 161. Agencies beyond the United States.

§ 150. **Incorporation.**—Thirteen or more persons may become a corporation for the purpose of making insurance upon vessels, freights, goods, wares, merchandise, specie, bullion, jewels, profits, commissions, bank-notes, bills of exchange, and other evidences of debt, bottomry and respondentia interests, and every insurance appertaining to or connected with marine risks and risks of transportation and navigation, and of reinsuring any risks taken by it, by making, acknowledging and filing in the office of the superintendent of insurance a declaration signed by all of them, stating their intention to form a corporation for one or more or all of such purposes, with a copy of the charter proposed to be adopted by it, which charter shall set forth the name of the corporation, the place where its principal office shall be located, the mode in which its corporate powers are to be exercised, and of electing directors, each of whom, if a stock corporation, shall be the owner in his own right of five hundred dollars par value of its stock and a majority of whom shall be citizens of this state, the mode of filling vacancies in the office of director, the period for the commencement and termination of its fiscal year, the amount of its capital or capital stock and the number of shares into which it shall be divided, if a stock corporation. Thereupon such persons and all others who shall become stockholders or members thereof, shall be a corporation by the name expressed in the charter.

No such corporation shall commence the transaction of the business of insurance until after publication of a notice of its intention to do so, once a week for at least six weeks, in a public newspaper in the county in which it is proposed to be located, nor if a stock corporation, until its capital stock shall all have been paid in in cash. Every such corporation shall continue in existence for thirty years, or for such less time as may be specified in its charter. No such corporation shall directly or indirectly deal or trade in buying or selling goods, wares or merchandise, or other commodities, except such as may have been insured by it, and such as may be sold under judicial process or otherwise in which or in the profits of the sale of which it may be interested by reason of having previously become insurers of the same or of some share or portion thereof.

§ 151. **Subscriptions to stock.**—After the publication of such notice and the filing of such declaration and charter, the corporation may open books for subscription to its capital stock and keep the same open until the full amount specified in the charter is subscribed; or, if its business is to be conducted on the plan of mutual



insurance, it may open books to receive propositions and enter into agreements for insurance in the manner and to the extent hereinafter specified.

**§ 152. Restrictions as to capital stock and premium notes.**—No such corporation shall be organized in the city and county of New York, or in the county of Kings, with a smaller capital than fifty thousand dollars, nor shall any such corporation formed for the purpose of doing business on the plan of mutual insurance, commence business if located in the city of New York, or county of Kings, until agreements have been entered into for insurance with at least one hundred applicants, the premiums on which shall amount to at least three hundred thousand dollars, and notes have been received in advance for the premiums on such risks, payable at the end of or within twelve months from the date thereof, which notes shall be considered as a part of its capital, and shall be known as capital stock notes and shall be valid, negotiable and collectible for the purpose of paying any losses which may occur or otherwise.

No such mutual insurance corporation shall in any other county of the state commence business until such agreements have been entered into, the premiums on which shall amount to one hundred thousand dollars and notes received therefor, which notes shall be payable and shall be liable for and used as above specified.

Any such mutual insurance corporation heretofore or hereafter organized may issue policies providing that the assured in such policies shall not participate in the profits of the corporation, and that in lieu of scrip the corporation may stipulate for and take a net premium, or may make a cash deduction from the premiums paid on such non-participating policies, though such mode of doing business may not be declared in its charter.

**§ 153. Increase of capital by mutual corporations.**—Any domestic mutual marine insurance corporation having its principal office in the city of New York may increase its capital or fund on the amount of accumulated net profits, which it is permitted to retain for the benefit and security of its policy holders, to any amount which shall be deemed expedient by its board of directors, but if there is in the charter of such corporation any limitation of its capital or fund, or the amount of net profits which it has the power to accumulate and retain, such increase shall not be made unless a written consent thereto under the seal of the corporation, by a resolution of the board of directors, certified by the secretary, shall first be filed in the office of the superintendent of insurance, and the

privilege of retaining profits over one million dollars shall not be exercised by any corporation availing itself of the provisions of this section, until a sufficient sum shall be applied by such corporation according to the provisions of its charter, towards the redemption of all certificates or premiums heretofore issued and now outstanding.

**§ 154. Cash capital of mutual corporations.**— Any domestic mutual marine insurance corporation may create or unite with its existing corporate funds, if it has any such funds, a cash capital of not less than three hundred thousand dollars, to be divided into shares of one hundred dollars each, to be issued to such persons as shall subscribe and pay for the same, which shall be transferable only on the books of the corporation, subject to such regulations as the directors shall from time to time prescribe.

The profits of the business of such corporation, after setting apart a sufficient sum to pay six per cent per annum upon the cash capital and the interest accruing upon any outstanding scrip or certificates, shall be divided between the stockholders and others entitled by its charter or articles of association to participate in its profits in the following manner, viz.: One-third thereof, or such other proportion not exceeding that rate as may be determined and agreed upon at the time when the subscriptions to the cash capital thereof are made, to the stockholders in cash, and the remainder thereof to the persons entitled by its charter or articles of association to participate in its profits, to whom scrip or certificates therefor shall be issued as provided in such charter or articles. The corporation may exclude from the computation of premiums entitled to participate in such profits, premiums or risks on which loss shall have happened.

The fund represented by the scrip shall constitute a surplus or reserve for the security and payment of losses, and be liable for any excess of losses and expenses above the earned premiums of any year. Each later annual issue of scrip shall be first reduced and wholly canceled before any previous annual issue is at all reduced, and all issues of scrip shall be liable to reduction and cancellation before the capital stock shall be encroached upon.

The provisions of this section and of the two following sections shall not be considered to extend the original charter of any corporation created by a special act of the legislature, or to apply to or revive any charter under which any corporation is not actually transacting business.

**§ 155. Rights and liabilities of holders of cash capital.**— The holders of the cash capital paid in shall be entitled to one vote either

in person or by proxy at all elections of the corporation for each share of stock held by them respectively. No person shall be entitled to vote at any election by reason of being the holder of a policy issued after such cash capital is paid in, or of being the holder of any scrip or certificate of profits of such corporation issued after that time, unless otherwise provided for in the articles of subscription to such cash capital. Each subscriber to the cash capital shall be individually liable to the extent of his subscription for the debts of the corporation until the shares of stock subscribed for by him shall have been paid in cash to the corporation.

§ 156. **Certificates convertible into stock.**— Whenever the cash stock paid in, as provided in the preceding section, shall amount to three hundred thousand dollars or more, the directors may, by a vote of three-fourths of the whole number, convert the certificates of profits, in whole or in part, into cash stock; commencing, if in part, with the certificates of the year of earliest issue outstanding, and so on in succession, upon application therefor being made to the corporation by the holders thereof, within such period of time and at such a price not exceeding its par value, and under such conditions and regulations as the trustees may prescribe for that purpose. Whenever the cash stock shall amount to five hundred thousand dollars or more, the directors may, by a like vote, call in and redeem and cancel the outstanding certificates of profits and make the corporation wholly a cash stock corporation, dividing all its profits to the cash stockholders; and the directors shall have power to make all necessary by-laws and regulations to conform to such changes in the business of the corporation.

Such corporation shall not apply any of its funds or profits to the redemption or payment of any certificate of profits, if by such payment the aggregate of its cash capital and its accumulated profits together shall be reduced below the amount which shall be fixed by its by-laws or articles of association, and such aggregate amount shall not be fixed below the sum of one million dollars, in addition to the amount of cash stock thereof.

§ 157. **Amendment of charter.**— Any domestic marine insurance corporation may amend its charter so as to enable it to transact all such business as can be transacted by marine insurance corporations under the laws of the state, by filing in the office of the superintendent of insurance a copy of its charter as amended, with the written consent thereto of three-fourths in amount of its stockholders, if a stock corporation, or, if a mutual corporation, of two-thirds of its directors. Thereupon such proceedings shall be had as are

required by law to be taken upon the filing of an original declaration and charter, and such corporation shall not transact any business under such amended charter until it shall have obtained the certificate of authority required by law from the superintendent of insurance.

§ 158. **Extension of charter.**— Any domestic marine insurance corporation may at any time have its original charter extended for a period not exceeding thirty years, by filing in the office of the superintendent of insurance a copy of such charter as amended and a consent thereto signed by all of its directors or by two-thirds of them, and not less than thirteen in number. It shall not be authorized to transact any business under its extended charter until the same proceedings have been taken as are required by law upon the filing of an original declaration and charter, and until the certificate of the superintendent required by law shall have been obtained authorizing it to transact business thereunder.

Any corporation whose charter has been so amended and which has obtained the authority of the superintendent to transact business thereunder may continue its business upon the same plan, and without any interruption of its business or distribution of its assets, as fully and with like effect as if it had been originally incorporated for the extended period.

§ 159. **Change in plan of insurance.**— Any domestic mutual marine insurance corporation may, by conforming its charter and otherwise proceeding in accordance with the laws of the state, with the consent of three-fourths of the whole number of its directors and with the written consent of three-fourths of the whole amount of the outstanding scrip, after giving notice once a week for six weeks of their intention in two newspapers, to be designated by the superintendent of insurance, change the plan of its business from that of a mutual insurance corporation to that of a capital stock corporation, by converting the outstanding certificates of profits of those so consenting into capital stock in shares of not less than fifty dollars each, in such period of time and at such price not exceeding its par value and under such conditions and regulations as such directors may fix and establish for that purpose; and, may, upon application therefor being made to the corporation by the holders thereof, convert the remaining outstanding certificates of profits in whole or in part into capital stock, or, at the option of the holders, redeem the same at the market price or value thereof, to be determined by a disinterested person appointed by a judge of a court of record of this state. The capital stock thus created shall in no case exceed the cash value

of the assets of the corporation, which shall not be less than two hundred and fifty thousand dollars.

No such corporation shall change the plan of its business to that of a capital stock corporation until the superintendent of insurance shall first have examined into the cash value of its assets and shall have issued his certificate that the corporation has complied with the provisions of this section and is in a safe and proper condition to continue the business of marine insurance, a copy of which certificate shall be recorded in the office of the superintendent and in the clerk's office of the county where its principal office is located.

**§ 160. Charges for insurance upon canals of the state.—**

No marine insurance corporation doing business in this state shall demand or receive upon any policy of insurance issued by it upon property in transit upon the canals of the state, for the premium on such policy, any sum of money as compensation, which shall include in any case over fifteen per cent thereof, as a price or remuneration of agents of the corporation for the business of obtaining such insurance on a salary or commission, or in any capacity whatever. No such corporation shall pay beyond the amount of fifteen per cent of the premiums so received on account of any such policy as the commission or remuneration of the agent or agents obtaining the insurance, and no part of the eighty-five per cent of the premium retained by the corporation shall be paid to any one except to the regular officers of the corporation for its benefit, and no shipper or middleman or other person shall either directly or indirectly be paid or receive any portion of such premium.

An agent of any such corporation, or other person, shall not charge or receive, directly or indirectly, from any person or persons for insurance of such property, any more than the regular rates of premium fixed by the corporation for the insurance of such property, or charge or receive any other or greater sum for such insurance than the amounts payable to the corporation and its agent as provided in this section. In all reports to the superintendent of insurance required by law every such corporation shall verify under oath to such superintendent in such form as he may prescribe, that the corporation has performed and fully carried out the provisions of this section.

Any agent, shipper or other person who shall violate any of the provisions of this section shall forfeit to the people of the state the sum of one hundred dollars, one-half of which shall be paid to the person injured, if he shall complain; the other half, or the whole thereof when any other than the injured person shall complain, shall

be paid to the treasury of the county in which the offense was committed, for the benefit of the poor of the city or town in which such offense was committed. Any corporation violating the provisions of this section shall be deemed to have forfeited its charter, and the attorney-general, upon information from the superintendent of insurance, or upon the complaint of any individual who shall give security, to be approved by the superintendent, for the payment of any costs or expenses on the part of the state, shall proceed against any such corporation so violating the provisions of this section to enforce the forfeiture of its charter. The court in which any such suit or proceeding may be instituted may, upon final judgment instead of decreeing the dissolution of the corporation, require it to pay such sum as a penalty for such violation not less than five hundred dollars, nor more than five thousand dollars, as the court may in its discretion impose, and direct in the judgment that in case such penalty is not paid within a time therein specified the corporation shall be dissolved.

§ 161. **Agencies beyond the United States.**—Any domestic marine insurance corporation may establish and maintain one or more agencies beyond the United States for the transaction of its lawful business upon such terms and conditions as it may prescribe, and may omit from its annual report the transactions at any such agency in Asia or Europe for five months previous to the time when the report is made, but such omitted transactions shall be included in the next annual report.

## **ARTICLE V.**

### **TITLE AND CREDIT GUARANTY CORPORATIONS.**

#### **SECTION 170. Incorporation.**

171. Subscriptions to capital stock.

172. By-laws.

173. Certificate of superintendent.

174. Certificate of payment of capital stock.

175. Directors.

176. Investment of capital and funds of a title guaranty corporation.

177. Corporations requisite to commencing business of a credit guaranty corporation.

178. Powers of credit guaranty corporations.

§ 170. **Incorporation.**—Five or more persons may form a corporation for either one or the other of the following purposes :

I. To examine titles to real property and chattels real, to procure and furnish information in relation thereto, make and guarantee the



correctness of searches for all instruments, liens or charges affecting the same; and guarantee or insure bonds and mortgages and the owners of real property and chattels real and others interested therein against loss by reason of defective titles thereto and other incumbrances thereon, which shall be known as a title guaranty corporation; or

II. To guarantee and indemnify merchants, traders and those engaged in business and giving credit from loss and damage by reason of giving and extending credit to their customers and those dealing with them, which shall be known as a credit guaranty corporation, by making, acknowledging and filing a certificate stating:

1. The name of the proposed corporation.
2. The kind of corporation to be formed and its purposes.
3. The amount and description of the capital stock.
4. The location of its office.
5. The duration of the corporation, not exceeding fifty years.

No credit guaranty corporation shall be formed for the transaction of business in this state, with a smaller capital than one hundred and fifty thousand dollars. No title guaranty corporation shall be formed with a smaller capital than one hundred and fifty thousand dollars or with a larger capital than one million dollars, which shall be divided into shares of one hundred dollars each.

Such certificate shall be filed in the office of the superintendent of insurance, who shall thereupon issue a license to the persons making such certificate, empowering them as commissioners to open books of subscription to the capital stock of the corporation at such times and places as they may determine.

§ 171. Subscriptions to capital stock. — Such commissioners shall open books for subscription to the capital stock of the corporation. No subscription shall be received unless at the time of making it, the person so subscribing shall pay to the commissioners ten per cent of the par value of the stock subscribed for in cash.

When one-third of the capital stock has been subscribed the commissioners shall call a meeting of the subscribers to adopt by-laws for the corporation and elect directors thereof. Notice of such meeting shall be given to every subscriber by depositing in the post-office properly addressed to him at his last known place of residence and postage prepaid, at least five days before the time fixed, a written or printed notice stating the time, place and object of the meeting.

§ 172. By-laws. — The by-laws of every corporation created un-

der the provisions of this article shall be deemed and taken to be its law, and shall provide :

1. The number of its directors.
2. Their term of office, which shall not exceed one year.
3. The manner of filling vacancies among directors and officers.
4. The time and place of the annual meeting.
5. The manner of calling and holding special meetings of stockholders.
6. The number of stockholders who shall attend either in person or by proxy at every meeting to constitute a quorum.
7. The officers of the corporation and manner of their election by and from the directors, and their powers and duties. Such officers shall always include a president, secretary, treasurer and a general manager.

8. The manner of electing or appointing inspectors of election.

9. The manner of amending or repealing the by-laws.

§ 173. **Certificate of superintendent.**—Within ten days after such meeting the commissioners shall file in the office of the superintendent of insurance a verified record of the proceedings thereof, containing a copy of the subscription list, a copy of the by-laws adopted, and the names of the directors chosen. Thereupon the superintendent shall issue to such directors the certificate required by this chapter, which shall include a copy of the original certificate provided in section 170, the date and place of the subscribers' meeting, the names of the directors elected and a statement that all the provisions of this article have been fully observed in the organization of the corporation.

Upon every amendment of the by-laws of such corporation, a copy of the amended by-laws, duly certified under the seal of the corporation, shall be filed in the office of the superintendent of insurance and of such county clerk, and shall not take effect until so filed. Unless such corporation shall be fully organized as provided in this section within one year after the issuing of the license to the commissioners to open books, such license shall be deemed to be revoked and all proceedings thereunder shall be void.

§ 174. **Certificate of payment of capital stock.**—The capital stock of every corporation organized under this article shall be paid in, one-third thereof within one year and the other two-thirds thereof within two years from its incorporation, or such corporation shall be dissolved. The directors of every such corporation, within thirty days after the payment of the last installment of the capital stock,

shall make a certificate stating the amount of the capital so paid in, which shall be signed and sworn to by the president and a majority of the directors, and shall be recorded in the office of the superintendent of insurance and of the clerk of the county in which the principal office of the corporation is situated.

§ 175. **Directors.**—Every director of any such corporation shall be a stockholder to the extent of at least five shares of stock. The corporation shall have such officers to be elected from among its directors, as shall be prescribed in its by-laws. There shall not be less than five nor more than twenty directors, and the number originally fixed by the by-laws of the corporation may be changed at a special meeting of the owners of a majority of the whole amount of the capital stock of the corporation, called pursuant to notice specifying the purpose of the meeting, which shall be served in the manner prescribed in section one hundred and seventy-one. The vote of a majority of the stockholders in person or by attorney duly authorized for that purpose shall be necessary to such change. A majority of the whole number of directors shall be necessary to constitute a quorum. The secretary shall record all the votes of the corporation and the minutes of its transactions and of the board of directors, in a book to be kept for that purpose. The treasurer shall give bonds in such sum and with such sureties as are required by the by-laws for the faithful discharge of his duties.

§ 176. **Investment of capital and funds of a title guaranty corporation.**—The capital and funds accumulated in the course of its business of every such title guaranty corporation shall be invested in the same kind of securities as the capital and stock of insurance corporations are required by this chapter to be invested. Every such corporation shall set apart a sum not less than two-thirds of the amount of its capital stock as a guaranty fund, and shall invest the same in the kinds of securities in which it is permitted to invest its capital.

No such corporation shall issue any guaranty or policy of insurance upon bonds and mortgages or to owners of real property and others interested therein against loss by reason of defective titles and other incumbrances, until such sum has been so set apart and invested.

Such fund shall be kept and applied for the security and payment of losses and expenses which may be incurred by reason of the guaranty or insurance made as aforesaid, and shall not be subject to other liabilities of the corporation to the extent of and so long as

any such guaranty or insurance is outstanding. If an increase of its capital stock is made by any such corporation, two-thirds of such increase shall be set apart and added to the guaranty fund thereof and kept and invested as above provided. When, on account of losses or otherwise, the amount of the guaranty fund of any such corporation shall fall below such sum as was required to be set apart and invested by this section, no further guaranty or insurance shall be issued until the deficiency below the amount so required has been supplied.

§ 177. Conditions requisite to commencing business of a credit guaranty corporation.—No credit guaranty corporation shall commence business before twenty-five per cent of its capital shall be paid in, nor until it shall have deposited with the superintendent of insurance the sum of one hundred thousand dollars as security for its policy holders.

§ 178. Powers of credit guaranty corporations.—Any such credit guaranty corporation shall have the right, power and authority to guaranty from loss, and to agree to pay to merchants, manufacturers, dealers and persons engaged in business and giving credit, the debt or debts owing to them, and to indemnify them from loss, and to charge and receive therefor such a sum or per cent as the consideration for such agreement, guaranty and indemnity as shall be agreed upon between such corporation and the persons guaranteed, and to buy, hold, own and take an assignment of any and all claims, accounts and demands so guaranteed, and to hold, own and collect the same, and to enforce the collection thereof by action the same as the original holder and owner thereof might or could do; also to insure the payment of money for personal services under contract of hiring. Any such corporation may use its capital stock or its funds accumulated in the course of its business to purchase or pay for any claim or demand, the payment of which it has or does guarantee; and such of its capital stock or funds as may not be so used shall be invested in the securities in which the capital and funds of insurance corporations are required by the provisions of this chapter to be invested.

**ARTICLE VI.****LIFE OR CASUALTY INSURANCE CORPORATIONS UPON THE CO-OPERATIVE OR ASSESSMENT PLAN.****SECTION 200. Incorporation.**

- 201. What corporations to be subject to this article.
- 202. Annual report.
- 203. Designation of principal office, and of person upon whom process be served.
- 204. Foreign corporations.
- 205. Reserve or emergency fund.
- 206. Reincorporation of existing societies.
- 207. Visitation by superintendent; proceedings to restrain corporation from doing business.
- 208. Hearing thereon.
- 209. Corporations subject to this article; annual meetings; examinations; transfers of risk; reinsurance.
- 210. Payment of maximum amount of policy; notice of assessment.
- 211. Change of beneficiary.
- 212. Exemption from execution.
- 213. Penalties.
- 214. Exemption of certain societies and subordinate lodges, of Odd Fellows and Masons, from the provisions of this article.
- 215. Corporations may deposit securities with the superintendent of insurance.
- 216. Quorum.

§ 200. Incorporation.—Nine or more persons may become a corporation for the purpose of transacting the business of life or casualty insurance, or both, upon the co-operative or assessment plan, fraternal or non-fraternal, by filing in the office of the superintendent of insurance a declaration signed by each of them and duly acknowledged, setting forth their intention to form a corporation for the transaction of life or casualty insurance, or both, upon the co-operative or assessment plan, the name of the proposed corporation, the place where its principal office shall be located within the state, the mode in which its corporate powers are to be exercised and of electing directors or other persons, by whatsoever name or title designated, who are to have and exercise the general control and management of its affairs and of its funds, which election shall be in such manner as shall be prescribed by its by-laws, or in case of fraternal societies, by representatives chosen by subordinate lodges, councils or bodies, who shall be members of such societies and a majority of them citizens of this state. Such declaration shall have indorsed thereon or annexed thereto and as a part thereof, the sworn

statement of three of such persons that at least two hundred persons eligible under the proposed laws of the corporation to membership therein have in good faith made application in writing for membership.

If all the requirements of this chapter have been complied with, the superintendent shall file such declaration and record it with the certificate of the attorney-general, in a book to be kept for that purpose, and deliver to the corporation a certified copy of the papers so filed and recorded, with his license in writing to the corporation to engage in the business proposed in the declaration, which certified copy and license shall be filed in the office of the clerk of the county where the office of the corporation is to be located. Such corporation shall not commence the business of insurance until at least two hundred persons have subscribed in writing to be insured therein in the aggregate amount of at least four hundred thousand dollars, and have each paid in two per cent on the amount of the insurance severally subscribed for in cash, and the same is deposited in bank to the credit of the mortuary fund to be held in trust for the benefit of the beneficiaries, and the superintendent of insurance shall have further certified that it has complied with the provisions of this chapter, and is authorized to transact business.

§ 201. What corporations to be subject to this article. — Any corporation, association or society which issues any certificate, policy or other evidence of interest to, or makes any promise or agreement with its members, whereby, upon the decease of a member any money or other benefit, charity, relief or aid is to be paid, provided or rendered by such corporation, association or society to his legal representatives, or to the beneficiary designated by him, which money, benefit, charity, relief or aid is derived from voluntary donations or from admission fees, dues or assessments, or any of them, collected or to be collected from the members thereof, or members of a class therein, or interest, or accretions thereon, or accumulations thereof, or rebates from amounts payable to beneficiaries or heirs; and wherein the money or other benefit, charity, relief or aid, so realized, is applied to or accumulated for the uses and purposes herein specified, or of such corporation, association or society, and the expenses of the management and prosecution of its business, shall be deemed to be engaged in the business of life insurance upon the co-operative or assessment plan, and shall be subject to the provisions of this article.

Any such corporation, association or society, which issues any cer-



tificate, policy or other evidence of interest to, or makes any promise or agreement with, its members, whereby, upon the sickness or other physical disability of a member, and not by reason of having attained a certain age, any money or other benefit, charity, relief or aid is to be paid, provided or rendered by such corporation, association or society to such member or beneficiary designated by him, which money, benefit, charity, relief or aid is derived from voluntary donations or assessments or admission fees, dues or assessments, or any of them, collected or to be collected from the members thereof, or members of a class therein, and interest and accretions thereon; and wherein the money or other benefit, charity, relief or aid is applied to or accumulated for the uses and purposes herein specified or of such corporation, association or society, and the expenses of the management and prosecution of its business, shall be deemed to be engaged in the business of casualty insurance upon the co-operative or assessment plan and shall be subject to the provisions of this article.

**§ 202. Annual report.**—Every such corporation, association or society doing a life or casualty insurance business, or both, upon the co-operative or assessment plan, as herein defined, shall, on or before the first day of March in each year, make and file with the superintendent of insurance a report of its affairs and its operations during the year ending on the thirty-first day of December immediately preceding, which report shall be in lieu of all other reports required by this chapter. Such reports shall be verified by such of the officers of the corporation, association or society as the superintendent may require and shall contain answers to the following questions :

1. Number of certificates or policies issued during the year or members admitted.
2. Amount of indemnity effected thereby.
3. Number of death losses.
4. Number of death losses paid.
5. The amount received from each assessment in each class for the year.
6. Total amount paid policy-holders, beneficiaries, legal representatives or heirs.
7. Number of death claims for which assessments have been made.
8. Number of death claims compromised or resisted, and brief statement of reason.
9. Does society charge annual dues?

10. How much on each one thousand dollars annually of per capita, as the case may be ?

11. Total amount received and the disposition thereof.

12. Does society use moneys received for payment of death claims to pay expenses of society, in whole or in part, and if so, state the amount so used ?

13. State total amount of salaries paid to officers.

14. Does society guarantee fixed amount to be paid, regardless of amount realized from assessments, dues, admission fees and donations ?

15. If so, state amount guaranteed and the security of such guaranty.

16. Has the society a reserve fund ?

17. If so, how is it created, and for what purpose, the amount thereof and how invested ?

18. Has the society more than one class ?

19. If so, how many, and the amount of indemnity in each.

20. Number of members in each class.

21. If organized under the laws of this state, state under what law and at what time.

22. If organized under the laws of any other state, state such fact and the date of organization.

23. Number of policies of membership lapsed during the year.

24. Number in force at beginning and end of year in each class, if more than one class.

25. Aggregate maximum, minimum and average age of membership in each class in the society.

26. The assets applicable to life or casualty insurance other than reserve fund, and how invested.

27. Amount received from all sources for life or casualty insurance and the disposition thereof.

No deposit of securities with the superintendent shall be required from such corporation, association or society. Any corporation, association or society refusing or neglecting to make such report, or to make payment of any of the fees required by law, may, upon the suit of the superintendent, be enjoined by the supreme court from carrying on any business until such report and payment shall be made and until the costs of such action be paid.

§ 203. Designation of principal office and of person upon whom process may be served. — Every such corporation doing

business within this state, except such as have already made such designation, and every such corporation hereafter formed under this article, shall, before doing any business in this state, designate some place within the state as the principal office in this state of such corporation, and some person residing in the same city, village or town where such office is located as a person upon whom service of legal process and papers may be made as upon such corporation. Such designation shall be made by an instrument under the hand of the president and secretary or other duly authorized officers of the corporation, and shall be filed in the office of the superintendent of insurance. If the person so designated shall die or remove from such place another person shall be appointed in his place within thirty days; and such attorney or location of principal office may, at the option of the corporation, be changed at any time. Notice of such change or of a new designation of a person upon whom service may be made as herein provided, under the hand of such president and secretary or other officer, shall be filed with the superintendent within thirty days after such change or new designation is made. Upon failure to comply with any of the provisions of this section within thirty days after written notice by the superintendent of such default and requiring such compliance, the corporation shall cease to do business in the state until it has complied therewith.

§ 204. **Foreign corporations.**—No such corporation, association or society organized under the laws of any other state or territory of the United States or District of Columbia, or foreign countries, except such secret fraternal societies having subordinate lodges or councils as are now authorized to transact business within this state with the consent of the superintendent, shall transact business herein until it has received from the superintendent of insurance a certificate of authority to do business in this state, a duplicate of which shall be filed in his office. The superintendent shall annually issue to such foreign corporation, association or society renewal certificates of authority to continue its business, if its annual report is satisfactory to him, which certificate shall be filed in the office of the clerk of the county where its principal office is located within this state, within sixty days after filing such annual report, and no such foreign corporation, association or society, except secret fraternal societies above specified, shall be authorized to continue such business after the expiration of such sixty days

unless such certificate shall have been so received and filed. The superintendent shall refuse a certificate of authority or a renewal of the same to any such foreign corporation, association or society, except such secret fraternal societies, when, in his judgment, such refusal will best promote the public interests, or when by the laws of the state or territory under which the same is organized, the corporations, associations or societies of this state doing a life or casualty business upon the co-operative or assessment plan are not permitted to transact such business in such other state or territory.

When any other state or territory shall impose any obligation upon such corporation, association or society of this state, or their agents transacting business in such other state or territory, the like obligations are hereby imposed upon similar corporations, associations or societies of such other state or territory and their agents or representatives transacting business in this state, and such corporation, association or society of such other state or territory, and their agents and representatives shall pay all licenses, fees or penalties to, and make deposits with, the state treasurer imposed by the laws of such other state or territory upon any such corporation, association or society of this state doing business therein; and in case of failure to pay the same, the superintendent shall refuse the certificate of authority herein provided for, or cancel such certificate in case one shall have previously been issued.

§ 205. **Reserve or emergency fund.**—Every such corporation, association or society, except casualty associations or societies, shall accumulate and maintain a reserve or emergency fund of an amount not less than the proceeds of one death or disability assessment, or periodical call on all policy or certificate holders thereof, and at least equal to the amount of its maximum certificate or policy. Such fund, if not already accumulated, shall be accumulated by every existing corporation, association or society formed for like purposes, within six months from the time this article takes effect; and by every corporation, association or society hereafter formed under this article, within six months from the date of its incorporation, and shall be held for the benefit or protection of its members, their legal representatives or beneficiaries. In case such fund or any portion thereof shall have been used by the corporation for the purpose or purposes for which the same was created or accumulated, and the amount thereof thereby reduced to less than the proceeds of one death or disability assessment or periodical call,

the amount of such reduction below the proceeds of one death or disability assessment or periodical call shall be made up and restored to said fund within three months thereafter. If such fund is in excess of double the proceeds of the last death or disability assessment or periodical call, upon the entire membership, the excess, or any portion thereof, may be used in reduction of assessments or premium calls upon policy or certificate holders ; and if in excess of double such proceeds, and not less than the sum of one hundred thousand dollars, the pro rata excess on any policy or certificate terminated by death or surrender may be refunded to the holder or beneficiary provided that nothing contained in this article shall be construed to permit any contract promising any fixed cash payment to any living certificate or policy holder. Every such casualty association or society shall accumulate within six months from the time this article takes effect and maintain a reserve or emergency fund of at least eight thousand dollars, if the maximum policy issued by such association or society be for five thousand dollars or more or a reserve or emergency fund of two dollars for each five thousand dollars of insurance in force, if the maximum policy issued by such association or society be for less than five thousand dollars, and thereafter five per cent of the amount realized on each periodical call shall be set apart and added thereunto, unless the same be already accumulated, until such fund shall be equal to two dollars on each five thousand dollars of insurance in force. In case such reserve or emergency fund or any portion thereof shall have been used by any such corporation or society for the purpose for which the same was created or maintained, the amount so used shall be made up and restored to said fund within six months thereafter. Such fund may be held in cash, or invested in the same class of securities required for the investment of funds by domestic life insurance corporations.

No foreign corporation, association or society shall be authorized to transact any business authorized by this article within this state unless it furnishes evidence satisfactory to the superintendent of insurance that it has accumulated a fund equal in amount to that required by this section, and that such accumulation is permitted by the laws of the state or country where it is incorporated and that it is held for the benefit of policy or certificate holders only and invested as required by such laws. If any such corporation, association or society is authorized by the law under which it is incorporated to issue contracts of insurance not authorized

by this article, it may be permitted to transact in this state the kind of business authorized by this article upon complying in all other respects with the requirements of this chapter and filing with the superintendent of insurance an agreement duly executed by its proper officers that such corporation, association or society will not enter into or issue within the state of New York any contract of insurance, policy or agreement not authorized by this article. Upon a breach of said agreement by any such corporation, association or society, the superintendent of insurance shall forthwith revoke and cancel its authority to transact business in this state.

The annual report of the superintendent of insurance required in section 202 of this article shall be in lieu of all other reports required by law.

§ 206. Reincorporation of existing societies.— Any existing domestic corporation, transacting the business of life or casualty insurance, or both, upon the co-operative or assessment plan, may reincorporate under the provisions of this article, under its existing corporate name, by filing with the superintendent the declaration, required by this article, signed and duly acknowledged by a majority of its board of directors, with a statement in like manner signed and acknowledged by them, that such corporation has accumulated the fund required by this article of corporations formed thereunder, and that the same is deposited in bank or trust company, to be held and maintained for the payment of losses by death, sickness, physical disability or other purposes for which such fund must be held, and the certificate of the attorney general of the state, whereupon the superintendent shall record, and deliver to such corporation, a certified copy of such declaration and of such certificate, together with his license to transact business, and upon filing the same in the office of the clerk of the county wherein its principal office is located, the same shall thereupon be deemed to be incorporated under the provisions of this article. It shall not be obligatory upon any such existing corporation, to reincorporate hereunder, and any such domestic corporation may continue to exercise all the rights, powers and privileges not inconsistent with this article, pursuant to its articles of association or incorporation, the same as if reincorporated under this article.

§ 207. Visitation by superintendent ; proceedings to restrain corporation from doing business.— All corporations, associations and societies to which this article is applicable, with their books, papers and vouchers, shall be subject to visitation and inspection by



the superintendent of insurance or such person as he may designate. The superintendent may address any inquiries to any such corporation, association or society in relation to its doings or condition, or any other matter connected with its transactions relative to the business contemplated by this article. All officers of such corporation, association or society shall promptly reply in writing to all such inquiries, under the oath of its president or secretary or other officers, if required.

When the superintendent, on investigation, shall be satisfied that any corporation organized under the laws of this state, doing business in this state of the character defined in this article is insolvent because of matured death claims or other obligations due and unpaid exceeding its assets and death or disability assessments or periodical calls made or in process of collection, or has exceeded its powers, failed to comply with any provision of law, or is conducting business fraudulently, he shall report the facts to the attorney-general, who, if he shall be of the opinion that the facts require such action, must thereupon apply to the supreme court, at a special term thereof, within the judicial district in which the principal office of such corporation, association or society within this state is located, for an order requiring the officers of such corporation, association or society to show cause, at a reasonable time and place within such district, why such corporation, association or society should not be restrained from continuing to transact business, with power to the court to adjourn the hearing thereon from time to time, not exceeding sixty days in all.

§ 208. **Hearing thereon.**—Such corporation, association or society shall be entitled to be heard, and to a trial by jury of the facts stated in the report, if the same shall be traversed, and to examine papers and witnesses under oath in the usual mode of trials of actions. If the trial is by jury the court shall submit to the jury specific requests to find covering the matters in issue separately, and the jury shall return a special verdict upon each question submitted, and if by such verdict it shall be found that the corporation, association or society is insolvent because of matured death claims or other obligations due and unpaid exceeding its assets as hereinbefore provided, the court may render judgment that it and each officer thereof be perpetually enjoined from exercising any corporate rights, privileges or franchises, and that it be dissolved and that a receiver be appointed, an account taken, and an equitable distribution of its property among its creditors and members be made. If no charge

of insolvency is made in such report, or, if made, is not established by the verdict of the jury, but it shall be found by such verdict that the corporation, association or society has exceeded its corporate powers or failed to comply with any provision of this article or has conducted its business unlawfully, the court may make and enter judgment enjoining and restraining it from the commission of such acts or such of them as the court may determine, and in case of failure to desist therefrom within the time to be specified in such judgment that the corporation be dissolved.

Pending the trial of the facts stated in such report, the court may, upon motion of the attorney-general and upon notice to the corporation, association or society, grant an injunction restraining it and its directors and other officers from collecting any debt or demand and from paying out or in any way transferring or delivering to any person any money, property or effects during the pendency of the proceedings except by direction of the court, and may appoint one or more temporary receivers of its property, with all the powers of temporary receivers in such cases.

§ 209. Corporations subject to this article ; annual meetings ; examinations ; transfers of risk ; reinsurance.—Every corporation, company, society, organization or association of this or any other state or country transacting the business of life or casualty insurance upon the co-operative or assessment plan, as defined in this article, shall be subject to all the provisions of this article, and not to the provisions of article two, and every such corporation, company, society, organization or association of this state, shall hold, within the county in which its principal office is located in this state, a stated annual meeting of their members or policy holders or representatives of local boards or subordinate bodies, in such manner and subject to such regulations, restrictions and provisions as the constitution and by-laws of the same may provide. In case of secret or fraternal societies having a grand or supreme body, such meeting of the supreme or grand body may be at such time and place as may be designated by it.

At such meeting a full and specific report of all receipts and expenditures of the preceding year or since the last meeting, as the case may be, shall be submitted. Not less than 'five days' notice of each meeting shall be given to each director and to each member and policy holder, who shall have been such for thirty days, in such manner as the by-laws may direct, except that in lieu thereof such notice may be given to the subordinate body of a society having a grand or

supreme body, or to a local board subordinate to the association. Every such association, corporation or society, other than secret fraternal societies now authorized to do business in this state, must hereafter before the adoption of any by-law or amendment thereto, cause the same to be mailed to the members and directors of such association, society or corporation, together with a notice of the time and place when the same shall be considered, which notice shall be the same as hereinbefore required for stated meetings.

All associations, societies, companies, corporations or organizations now transacting or hereafter desiring to transact the business of life or casualty insurance in this state upon any other plan than that defined in and by this article, shall comply with all the provisions of the general life and health insurance laws. No such corporation organized under the laws of this state shall transfer its risks to or reinsure them in any other corporation unless the contract of transfer or reinsurance is first submitted to and approved by a two-thirds vote of a meeting of the insured called to consider the same, of which meeting a written or printed notice shall be mailed to each member, certificate-holder or policy-holder at least thirty days before the day fixed for such meeting. If such transfer or reinsurance shall be approved, every member, certificate-holder or policy-holder of the corporation who shall file with the secretary thereof within ten days after the meeting a written notice of his preference to be transferred to some other corporation than that named in the contract, shall be accorded all the rights and privileges, if any, in aid of such transfer as would have been accorded under the terms of such contract had he been transferred to the corporation named therein.

No such corporation, association or society organized under the laws of this state shall transfer its risks or assets or any part thereof to, or reinsure its risks or any part thereof in, any insurance corporation or association of any other state or country which is not at the time of such transfer or reinsurance authorized to do insurance business in this state under the laws thereof.

§ 210. **Payment of maximum amount of policy; notice of assessment.**—Every policy or certificate hereafter issued by any corporation doing business under this article, and promising a payment to be made upon a contingency of death, sickness or accident, shall specify the sum of money which it promises to pay upon each contingency insured against, and the number of days after satisfactory proof of the happening of such contingency on which such pay-

ment shall be made. Upon the occurrence of such contingency, unless the contract shall have been avoided by fraud, or by breach of its conditions, the corporation shall be obligated to the beneficiary for such payment at the time and to the maximum amount specified in the policy or certificate. If the superintendent of insurance shall be satisfied upon investigation that any such corporation has refused or failed to make such payment for thirty days after it became due, and after proper demand, he shall notify the corporation to issue no new policies or certificates until such indebtedness is fully paid; and no officer or agent of the corporation shall make, sign or issue any policy or certificate of insurance while such notice is in force.

Each notice of assessment, premium or periodical call made by any such corporation, association or society, upon its members or any of them, shall truly state the cause and purpose of the same, and if the amount paid on the last death claim paid has not been paid in full at its maximum face value, the name of the deceased member, and the maximum face value of the certificate or policy, and the reason why not paid in full.

An affidavit made by the officer, book-keeper or clerk of any such corporation, association or society, having charge of the mailing of such notice, that such notice was mailed, stating the date of mailing, shall be presumptive evidence thereof.

§ 211. **Change of beneficiary.**—Membership in any such corporation, association or society shall give to any member thereof the right, at any time, with the consent of such corporation, association or society, to make a change in his payee or payees or beneficiary or beneficiaries without requiring the consent of such payee or beneficiaries.

§ 212. **Exemption from execution.**—The money or other benefit, charity, relief or aid to be paid, provided or rendered by any such corporation, association or society, shall be exempt from execution and shall not be liable to be seized, taken or appropriated by any legal or equitable process, to pay any debt or liability of a member, or the widow of a deceased member of such corporation designated as the beneficiary thereof.

§ 213. **Penalties.**—Any officer or agent of any such corporation, association or society, subject to any of the provisions of this chapter, who shall neglect or refuse to comply with any such provision, or who shall make in any report or statement any intentionally false or fraudulent statement; or shall refuse to permit the superintendent of insurance or any examiner duly authorized by him for the

purpose, to make an examination of its condition and business, books, papers and vouchers; and any person who shall act within this state as agent, solicitor or collector for any such corporation, association or society which shall have failed, neglected or refused to comply with or violated any of the provisions of this chapter, or shall have failed or neglected to procure from the superintendent the certificate of authority to transact business in this state required by law, shall forfeit to the people of the state the sum of one hundred dollars for every such offense. If an examination of the condition and business of any such corporation, association or society transacting business in this state shall be prevented by such refusal, the superintendent of insurance shall revoke the certificate of authority issued to such corporation, association or society; and it shall thereafter be unlawful for it to do business in this state until it shall have submitted to an examination, and the superintendent shall have issued to it a new certificate of authority authorizing it to continue business in this state.

**§ 214. Exemption of certain societies and subordinate lodges of Odd Fellows and Masons from the provisions of this article.**—No society or subordinate lodge or body of any secret, fraternal or industrial society now organized in this state paying only sick benefits not exceeding two hundred and fifty dollars in the aggregate to any one person in any one year, or a funeral benefit or relief to those dependent on a member not exceeding three hundred and fifty dollars shall be required to make any report thereof under this article. Subordinate lodges or councils or other bodies by whatever name known, of fraternal, secret or industrial societies shall not be required to make an annual report to the superintendent of insurance, when the money, charity, relief or aid is payable by the grand or supreme body of the same, and is derived from assessments upon such subordinates or their members, but such report shall be made and filed by such grand or supreme body.

This article shall not prevent the creation of a reserve fund by any corporation, association or society transacting the business of life or casualty insurance, or both, upon the co-operative or assessment plan, where its funds or its accretions, or both are to be used for the payment of assessments or death losses, or for benefits in case of physical disability only. This article shall not apply to the grand or subordinate lodges of the Independent Order of Odd Fellows as they now exist, or to any grand or subordinate lodge of Free and Accepted Masons, nor to any association or organization of the veteran firemen

of any city of the state having a population of five hundred thousand or more. This article shall not prevent any corporation, association or society authorized to do business hereunder from paying out of surplus accumulations or reserve fund to its members, such ratable cash dividends or crediting on assessments such ratable sums as they are now or may hereafter become entitled to by the terms of their contracts, provided that nothing contained in this article shall be construed to permit any contract promising any fixed cash payment to any living certificate or policy holder unless such corporation, association or society shall have deposited the sum of one hundred thousand dollars with the insurance department of the state, and the superintendent has certified to that effect. The voluntary unincorporated associations known as the New York Stock Exchange and the Consolidated Stock and Petroleum Exchange of New York are exempted from the provisions of this article.

§ 215. **Corporations may deposit securities with the superintendent of insurance.**— Any corporation, association or society lawfully engaged in the business of insurance upon the co-operative or assessment plan in this state, may, in its discretion, through its officers or directors, deposit with the superintendent of insurance such securities and for such amounts as may be approved by him. Such deposit shall be received and held by the superintendent for the sole benefit of the members of such corporation and subject to the provisions of such deed of trust as shall be approved by the superintendent and accepted by him from the officers or directors of the corporation; but the deposits with the insurance department, and all other investments of reserve funds shall be made in the same class of securities that are required by law for deposit with the superintendent of insurance or for the investment of funds by life insurance corporations.

§ 216. **Quorum.**— At the stated meeting for the election of officers, trustees, directors or managers of any such corporation, association or society, a majority of the persons entitled to vote at such meeting shall not be necessary to a quorum.

## ARTICLE VII.

### FRATERNAL BENEFICIARY SOCIETIES, ORDERS OR ASSOCIATIONS.

#### SECTION 230. Incorporation.

231. Reincorporation of existing fraternities.

232. Foreign societies.

233. Mutual benefit fraternities.



SECTION 234. Constitution and by-laws.

235. Agreements for benefits.

236. Revenues.

237. Annual report.

238. Rights of members, exemptions, notice of assessment.

239. Application of article.

§ 230. Incorporation.—Nine or more persons may become an incorporated fraternal beneficiary society, order or association for the relief by insurance, upon the mutual or assessment plan, of members or beneficiaries, in case of sickness, disability or death, or for the payment of money upon the expiration of a fixed period, of not less than five years, in case payment of a death loss has not been incurred before the expiration of such period by filing in the office of the superintendent of insurance a declaration executed and acknowledged by each of them, stating their intention to form a fraternal beneficiary society, order or association for the purposes above named, the name of the proposed society, order or association, the mode in which its corporate powers are to be exercised, the name and official title of the officers, trustees, directors, representatives or other persons, by whatsoever name or title designated, who are to have and exercise the general control and management of its affairs and funds, who shall be elected after the first year by representatives chosen by subordinate lodges, councils or bodies who shall be members of such society, order or association. There shall be indorsed upon such declaration or annexed thereto, and forming a part thereof, the sworn statement of at least three of the subscribers thereto, that two hundred persons eligible under the proposed laws of such society, order or association to membership therein have in good faith made application in writing for membership.

If all the requirements of law have been complied with, the superintendent shall thereupon file such declaration and cause it to be recorded with the certificate of the attorney-general in a book to be kept for that purpose, and shall deliver to such society, order or association a certified copy of the papers so recorded in his office, together with a license or certificate of the superintendent to such society, order or association, to carry on the work of a fraternal beneficiary society, order or association, as proposed in the declaration.

No such society, order or association shall transact the business of insurance in this state until at least two hundred persons have subscribed in writing to be beneficiary members therein in the aggregate amount of at least four hundred thousand dollars, and have each paid in one full assessment in cash amounting to at least one per cent thereof, nor until the superintendent of insurance shall have

further certified that it has complied with the provisions of this chapter and is authorized to transact business in this state.

**§ 231. Reincorporation of existing fraternities.**—Any mutual benefit fraternity, as defined by this article, and incorporated under the laws of this state, may reincorporate under the provisions of this chapter by filing with the superintendent a declaration adopted by the governing body of such corporation and executed and duly acknowledged by the president, secretary, treasurer and trustees, with the seal thereof, which shall contain the name of the corporation, the mode in which the corporate powers granted by this article are to be exercised, the name and official title of the officers, trustees, directors, representatives or other persons by whatsoever name or title designated, who are to have and exercise the general control and management of its affairs and of its funds, and the mode of their selection, and the place where its office within the state is located. Such declaration shall have indorsed thereon or annexed thereto as a part thereof, the sworn statement of three of such officers that at least two hundred persons are bona fide members of such society, order or association, and that the total beneficiary amount is not less than four hundred thousand dollars, and that one full assessment has been paid in.

The superintendent shall file such declaration and statement, and refer same to the attorney-general for his certificate of conformity and approval, and upon the return thereof the superintendent shall record the same with the certificate of the attorney-general in his office, and deliver to such corporation, association or society a certified copy of the papers so recorded, together with his license to carry on the work of a fraternal beneficiary society, order or association as proposed in such declaration. Upon filing the same in the office of the clerk of the county wherein the principal office for the transaction of its business is located, it shall thereupon be duly incorporated under the provisions of this article. No existing fraternal beneficiary society, order or association shall be required to reincorporate under the provisions of this article.

**§ 232. Foreign societies.**—No fraternal beneficiary society, order or association organized under the laws of any other state or territory of the United States, or of the District of Columbia or foreign countries, or any voluntary fraternal beneficiary society, order or association having its principal place of business outside of the state of New York and not now doing business in this state, shall transact business herein until it has filed with the superintendent of insurance a certificate under oath of its principal officers that at least

two hundred persons have subscribed in writing to be beneficiary members therein with a total beneficiary amount not less than four hundred thousand dollars, and that they have paid in one full assessment in cash amounting to at least one per cent thereof, nor until such society, order or association has received from the superintendent a certificate of authority to transact business in this state in duplicate, one of which shall be filed in the office of the superintendent.

The superintendent shall revoke such certificate at any time that it shall appear from the annual report of such order, society or association to the insurance department, or from any other satisfactory evidence, that the membership of such society, order or association has diminished below two hundred representing an insurance of four hundred thousand dollars, and no such society, order or association shall thereafter continue to do business in this state.

In addition to the foregoing requirements and provisions, and before the issuance of a certificate of authority, to transact business, as herein provided, to any society, order or association, herein described, organized under the laws of any foreign country, it shall be the duty of the superintendent of insurance, either personally or by some person or persons appointed by him, to visit and examine thoroughly and fully as he may deem necessary, and as he may determine, into the condition, business methods, character and investment of funds and the affairs generally of any such society, order or association making application to him for license, and such superintendent is authorized to make such examination as often as he may deem necessary; and the expense of every such examination shall be paid by the society, order or association examined to such an amount as the superintendent shall determine; but when such examination shall be made by the superintendent personally, or by one or more of the regular clerks in his department, no charge shall be made for such examination, except for the necessary traveling and other expenses. And whenever it shall appear to the said superintendent, from an examination made as aforesaid, and from the statement, report or certificate filed or submitted by any such society, order or association as herein provided, that it is conducting its affairs in a safe and authorized manner and has in all respects complied with the requirements of this section, he shall issue to such society, order or association, a certificate under his hand and seal, permitting it to transact business in this state for the term of one year from the date thereof.

But whenever it shall appear to the said superintendent, from any examination made, or from any report submitted or certificate filed,

or from any reliable information otherwise obtained, that such licensee, in addition to any other violation in this section provided, is conducting its business in an unsafe or unauthorized manner, he shall, by an order under his hand and seal of office, addressed to such licensee, or its proper officers, direct said licensee to discontinue such unsafe or unlawful practice, and to conform to the requirements of its charter and of law, and to provide for the safety and security of its transactions, and for the failure to make any report herein required, or to comply with such order, or whenever it shall appear to said superintendent that it is unsafe or inexpedient for any such licensee to continue the transaction of business in this state, he shall forthwith revoke the license of such licensee; and service of any such order of revocation may be made personally upon any of the officers of such licensee within this state, or by mail, addressed to such licensee or its officers, at its principal place of business in the country wherein it is organized, or such service may be made by publication thereof for six successive days in the state paper, published in the city of Albany, and after the completion of such service, no such licensee shall thereafter continue to do business in this state.

The examination herein provided for, however, shall not be necessary in any case where such society, order or association, is under the supervision and examination of the insurance department of the country of its organization or incorporation, and in case the superintendent of this state shall be satisfied from the report of said home department, that such society, order or association is conducting its business in a safe and lawful manner.

**§ 233. Mutual benefit fraternities.**— All beneficiary societies, orders or associations, whether voluntary or incorporated under the laws of this state or any other state or territory of the United States or of the District of Columbia, doing any kind of business in this state authorized by this article, and the members of which are proposed, elected and initiated in subordinate lodges or councils or other bodies, by whatever other name known, according to the constitution, laws, rules, regulations, rites and ceremonies of such societies, orders or associations respectively, now existing in this state, or which may be hereafter instituted, organized or authorized to do business, in this state, are declared to be mutual benefit fraternities and exempt from the provisions of the other insurance laws of the state, and shall be subject only to the provisions of this article, and such provisions of article one of this chapter as may be specially applicable thereto.

**§ 234. Constitution and by-laws.**— The incorporators, trustees,

directors, members or representatives, as the case may be, of any fraternal beneficiary society, order or association organized under this article, or under any act repealed by this chapter, shall have the power to make such constitution and by-laws, not inconsistent with law, as may be deemed necessary for the government of its officers and the conduct of its affairs, and to alter and amend the same when necessary. When so made, altered or amended, they shall be the law governing such society, order or association and its officers, subordinate lodges, councils or bodies, and the members in their relations to such society, order or association in all their acts, and they and their successors may have a common seal and may change and alter the same.

§ 235. **Agreements for benefits.**— Any such fraternal beneficiary society, order or association, may make such promise or agreement with its members for the payment of benefits to a member or others dependent upon him, or a beneficiary designated by him in case of sickness, disability or death, or for the payment of money upon the expiration of a fixed period, in case a death loss has not been incurred before the expiration of such period as may be provided for by the constitution, laws, rules and regulations of such society, order or association, subject to a compliance therewith by the member. It shall not issue any certificate or make any promise or agreement express or implied, for the payment of any greater sum of money than one assessment upon all its members will realize at the time of issuing such certificate or the making of such promise or agreement, but no such fraternal beneficiary society, order or association not now doing business in this state shall issue any certificate for the payment of money upon the expiration of a fixed period of less than five years.

§ 236. **Revenues.**— Any such fraternal society, order or association, may derive such money or such benefit, charity, relief or aid fund from voluntary donations, or from admission fees, dues and assessments, collected or to be collected from members thereof, in manner and form as may be provided by its constitution, laws, rules and regulations. It shall not, nor shall any officer thereof, use any money collected or received for the payment of beneficiary claims for any other purpose.

§ 237. **Annual report.**— Every such fraternal society, order or association as defined by this article, and doing business within this state, shall, on or before the first day of March of each year, make and file with the superintendent of insurance of this state a report of its affairs and operations during the year ending on the thirty-

first day of December immediately preceding, which annual report shall be in lieu of all other reports required by any other law. Such report shall be upon blank forms to be provided by the superintendent, and shall be verified under oath by the duly authorized officers of such society, order or association, and shall be published, or the substance thereof, in his annual report by the superintendent, under a separate part entitled "fraternal beneficiary societies, orders or associations," and shall contain answers to the following questions:

1. Number of certificates issued during the year, or members admitted.

2. Amount of indemnity effected thereby.

3. Number of losses or benefit liabilities incurred.

4. Number of losses or benefit liabilities paid.

5. The amount received from each assessment for the year.

6. Total amount paid members, beneficiaries, legal representatives or heirs.

7. Number and kind of claims for which assessments have been made.

8. Number and kinds of claims compromised or resisted, and brief statement of reasons.

9. Does society charge annual or other periodical dues or admission fees?

10. How much on each one thousand dollars annually or per capita, as the case may be?

11. Total amount received, from what source, and the disposition thereof.

12. State total amount of salaries paid to officers.

13. Does society guarantee, in its certificates, fixed amount to be paid, regardless of amount realized from assessments, dues, and admission fees and donations?

14. If so, state amount guaranteed, and the security of such guaranty.

15. Has the society a reserve fund?

16. If so, how is it created, and for what purpose, the amount thereof, and how invested?

17. Has the society more than one class?

18. If so, how many, and the amount of indemnity in each?

19. Number of members in each class.

20. If voluntary so state, and give date of organization.

21. If organized under the laws of this state, state under what law and at what time, giving chapter and year and date of passage of the act.



22. If organized under the laws of any other state, territory or District of Columbia, state such fact and the date of organization, giving chapter and year and date of passage of the act.

23. Number of certificates of membership lapsed during the year.

24. Number in force at beginning and end of year; if more than one class, number in each class.

The superintendent of insurance is authorized and empowered to address any additional inquiries to any of the societies, orders or associations referred to in this article in relation to its doings or condition or any other matters connected with its transactions relative to the business contemplated by this article, and such officers of the society, order or association as the superintendent may require, shall properly reply in writing, under oath, to all such inquiries.

All such societies, orders or associations, together with their books, papers and vouchers, shall be subject to visitation and inspection by the superintendent of insurance, or such person or persons as he may at any time designate. Any such society, order or association refusing or neglecting to make such report may, upon the suit of the superintendent, be enjoined by the supreme court from carrying on any business until such report shall be made, and until the costs of such action shall be paid. Such superintendent must within thirty days after failure to make such report, or in case any such society, order or association shall exceed its powers or shall conduct its business fraudulently, or fail to comply with any of the provisions of this article, give notice in writing to the attorney-general, who must immediately commence an action against the delinquent society. The annual report of the superintendent of insurance shall be in lieu of all other reports required by any other law. Any supreme grand or subordinate officer, trustee or agent of any such mutual fraternal beneficiary society, order or association, subject to any of the provisions of this chapter, who shall neglect or refuse to comply with such provisions or who shall make in any report or statement any intentionally false or fraudulent statement; or shall refuse to permit the superintendent of insurance or any examiner duly authorized by him for that purpose, to make an examination of its condition and business, books, papers and vouchers; and any person who shall act within this state as supreme grand or subordinate officer, trustee, agent, solicitor or collector for any such fraternal beneficiary society, order or association, which shall have failed, neglected or refused to comply with or violate any of the provisions of this chapter, or shall have failed or neglected to procure from the superintendent, the certificate of authority to transact business in this state required by

law, shall forfeit to the people of the state the sum of one hundred dollars for every such offense. If an examination of the condition and business of any such fraternal beneficiary society, order or association transacting business in this state shall be prevented by such refusal, the superintendent of insurance shall revoke the certificate of authority issued to such fraternal beneficiary society, order or association; and it shall thereafter be unlawful for it to do business in this state until it shall have issued to it a new certificate of authority authorizing it to continue business in this state.

**§ 238. Rights of members; exemptions; notice of assessment.**—Membership in any such society, order or association shall give to the member the right at any time, upon the consent of such society, order or association, in the manner and form prescribed by its by-laws, to make a change in its payee or payees, beneficiary or beneficiaries, without requiring the consent of such payees or beneficiaries. All money or other benefit, charity, relief or aid to be paid, provided or rendered by any such society, order or association, whether voluntary or incorporated under this article or any other law, shall be exempt from execution, and shall not be liable to be seized, taken or appropriated by any legal or equitable process, to pay any debt or liability of a member, beneficiary, or beneficiaries of a member. All notices of assessment made upon its lodges, councils, branches or members, or any of them by any such society, order or association, shall truly state the cause and purpose of the assessment, and what portion or amount thereof, if any, is to be used for the payment of other than beneficiary claims.

**§ 239. Application of article.**—All fraternal beneficiary societies, orders or associations, as defined by section two hundred and thirty-three of this chapter, shall be subject to all the provisions of this article, except sections 230 to 232, both inclusive, together with their members and beneficiaries, and entitled to all the rights, privileges and benefits of this article.

This article shall not apply to any corporation, society or association carrying on the business of life, health, casualty or accident insurance for profit or gain, but it shall only apply to fraternal beneficiary societies, orders or associations as defined in this article. This article shall not affect any subordinate lodge or branch of any such fraternal beneficiary society, order or association, except as provided in section 234, nor apply to the grand or subordinate lodges of the Independent Order of Odd Fellows, as they now exist, or any grand or subordinate lodge or other body of Free and Accepted Masons,

nor to the grand or any subordinate lodge of the Knights of Pythias, exclusive of the endowment rank.

## ARTICLE VIII.

### CORPORATIONS FOR INSURANCE OF DOMESTIC ANIMALS.

**SECTION 250.** Incorporation.

251. Annual meeting; election of directors.

252. Annual report.

253. Examinations; when corporation may be restrained from doing business.

254. Assessments.

§ 250. **Incorporation.**—Nine or more persons may become a corporation for the purposes of insuring the lives of domestic animals, upon the co-operative or assessment plan of insurance, by making, acknowledging and filing in the office of the superintendent of insurance, a declaration stating their intention to form such corporation; the name by which it shall be known; the place where its office shall be located within this state; its particular business and objects; its duration, not to exceed thirty years; the number of its directors, not less than five nor more than thirteen, who shall manage its affairs, and the names and post-office addresses of the directors for the first year of its existence, with a sworn statement by two or more of such persons, that at least fifty persons eligible to membership have applied in good faith, in writing, for membership and insurance in such corporation, to the amount of at least ten thousand dollars, and have severally in good faith paid in in cash the regular premiums therefor, and admission or membership fees in accordance with the by-laws of such corporation. If the requirements of this chapter have been complied with, the superintendent shall file such declaration, statement and certificate, and cause the same to be recorded in a book to be kept for that purpose, and shall deliver to such corporation a certified copy of the papers so filed and recorded, with his license to the corporation to engage in the business proposed in such declaration. Upon such certified copy and license being filed in the office of the clerk of the county where the corporation is to be located, such persons and those that may thereafter be associated with them, or their successors, shall be a corporation and authorized to commence and carry on such business.

§ 251. **Annual meeting; election of directors.** — Every such corporation shall hold, within the county in which its office is located, a stated annual meeting of its members in such manner and subject to such regulations as its constitution or by-laws may provide. Notice

of such meeting of not less than five days shall be given in such manner as the by-laws may direct. The directors named in such declaration shall hold their office for one year and until others are elected and qualified, and directors shall be annually elected at such stated meeting. The directors shall choose from their number a president and secretary, and shall appoint such other officers as their by-laws shall prescribe. At the stated annual meeting, a majority of the persons entitled to vote thereat shall not be necessary to a quorum, and if the meeting shall not be held on the day designated therefor, it may be held on a subsequent day, in such manner as may be directed by the by-laws.

§ 252. **Annual report.**—Every such corporation shall annually, on or before March first, make and file with the superintendent of insurance a report for the year ending on the thirty-first day of December immediately preceding, verified by the duly authorized officers of such corporation, which shall state the date of its organization, the number of certificates or policies issued during the year or members admitted, the number of losses paid and the amount paid on each loss, the amount received from each assessment for the year, the number of claims for which assessments have been made, the total amount received for benefit fund and the disposition thereof, the reserve fund, if any, and its amount, the number of policies or memberships lapsed during the year, the number in force at the beginning and the end of the year. No other report, and no deposit of securities with the superintendent, shall be required of the corporation. Any corporation refusing or neglecting to make such report, or to make payment of any fees required by law, may, upon the suit of the attorney-general, upon the recommendation of the superintendent of insurance, be enjoined by the supreme court from carrying on any business until such report and payment shall be made and the costs of such action be paid.

§ 253. **Examinations ; when corporation may be restrained from doing business.**—Every such corporation, together with its books, papers and vouchers, shall be subject to visitation and inspection by the superintendent of insurance, or such person as he may designate. When on investigation, the superintendent shall be satisfied that any such corporation has exceeded its powers, failed to comply with any provision of law, or is conducting business fraudulently, he shall report the facts to the attorney-general ; who, if he shall be of the opinion that the facts require such action, must thereupon apply to the supreme court at a special term thereof within

the judicial district within which the office of such corporation is located for an order requiring its officers to show cause at a time and place within the district to be specified in the order why it should not be restrained from continuing to transact business, and the court may adjourn the hearing thereof from time to time not exceeding sixty days in all.

Upon the return of such order the corporation may be heard and shall be entitled to a trial by jury of the facts stated in the report, if the same shall be traversed and the corporation shall demand a trial by jury, and to examine papers and witnesses under oath in the usual mode of trials of actions. If the facts thus reported shall be established by the finding of the court or verdict of the jury, the court may thereupon make its order or decree closing the business of the corporation and appointing a receiver for the distribution of its assets among its members, certificate-holders, policy-holders and creditors, or may make such other order as the interests of the corporation and the public may require.

Pending such trial the court may, upon the motion of the attorney-general, grant an injunction order restraining the corporation and its directors or other officers from collecting any debt or demand, and from paying out or in any other way transferring or delivering to any person any money or property of the corporation during the pendency of such proceeding, except by the order of the court; and may appoint one or more temporary receivers of the property of the corporation, with all the powers of such receivers; but no action shall be maintained to restrain or dissolve any such corporation except by the attorney-general, in the name and in behalf of the people.

§ 254. Assessments.—Each notice of assessment made by any such corporation upon its members, or any of them, shall truly state the cause and purposes of such assessment and the amount paid on the last loss claim paid, the maximum face value of the policy or certificate upon which such claim was paid, and if not paid in full, the reason therefor. The manner and mode of making such assessments and the cost, expense and collection thereof shall be regulated by the by-laws of the corporation.

ARTICLE IX.

TOWN AND COUNTY CO-OPERATIVE INSURANCE CORPORATIONS.

SECTION 260. Town corporations under the act of 1857.

- 261. Incorporation.
- 262. Directors.
- 263. Certificate to be filed.
- 264. Commencement of business.
- 265. Records.
- 266. Policies of insurance.
- 267. Contract of members.
- 268. Classification of risks; borrowing money; assessments.
- 269. Notice of assessments.
- 270. Collection of unpaid assessments.
- 271. Restrictions of insurance.
- 272. Annual election.
- 273. Annual statement.
- 274. Withdrawal of members; new members.
- 275. Restrictions as to business.
- 276. By-laws.
- 277. Reorganization of existing corporations.
- 278. Limitation of business; extension of territorial limits.
- 279. Existing town corporation may extend itself to entire county.

§ 260. Town corporations under the act of 1857.—Corporations formed under chapter 739 of the laws of 1857, and the acts amendatory thereof, are continued in existence according to the terms of such act and amendatory acts, and shall be subject to the provisions of such act and amendatory acts and not to the provisions of this chapter, notwithstanding the repeal of such acts.

§ 261. Incorporation.—Twenty-five or more persons residing in one or more adjoining towns, or in any county or in two or three adjoining counties, who collectively own property of the value of fifty thousand dollars or over, may become a corporation for either of the following purposes:

1. For the purpose of co-operative insurance against loss or damage by fire or lightning.

2. For the purpose of preventing the larceny of domestic animals, horses, wagons, sleighs, harnesses and robes, or for the purpose of mutual insurance of such property against loss or damage by larceny, or any loss or expense incurred in recovering the same when stolen, or in apprehension of the thief or thieves, or for all of the purposes named in this subdivision; by making and acknowledging a certificate, setting forth their intention to form such corporation, the county or counties or the town or towns in which it intends



to do business, its corporate name, which shall embrace the name of the county or counties where it includes one or more counties, and which, if a town corporation, shall have the name of the town or towns in which its office is to be located. Every person insured in such corporation who shall sign an application for insurance as required by the certificate of incorporation, or the by-laws of the corporation, shall thereby become a member thereof.

§ 262. **Directors.**—Every such corporation, if a town corporation, shall have not less than five directors, and if a county corporation, not less than eleven, to be chosen from the members of the corporation, who shall manage its affairs and shall hold office for one year, and such longer term not exceeding four years as the by-laws of the corporation may prescribe, and until others are elected and qualified. They may be divided into classes and a portion only elected each year. They shall choose by ballot from their number a president, secretary, and such other officers as their by-laws shall prescribe, who shall hold their offices for not less than one nor more than four years, as may be prescribed in such by-laws. The board of directors shall exercise the corporate powers and transact the business of the corporation in accordance with its by-laws. The by-laws shall prescribe the number of directors to constitute a quorum, and may provide for an executive committee for such purposes as may be necessary, and may require officers to give such bonds as the needs of the corporation may require. The board of directors may by resolution duly passed at any regular meeting, remove the office of the corporation to any other town within the county or counties where it is organized, if a county corporation; to any other town in which it is authorized to make insurance, if a town corporation. Such removal shall not be made until the expiration of five days after the passage of such resolution and the filing of a copy of the same in the office of the secretary of state.

§ 263. **Certificate to be filed.**—The directors, before doing any business of insurance, shall prepare a statement showing the names of the persons comprising the proposed corporation, the amount of proposed insurance to each, the name of the corporation, a copy of its certificate of incorporation and by-laws, the names of the county or counties, town or towns in which it proposes to do business, the names of its directors and officers, with their post-office addresses, the place where the principal office for the transaction of its business shall be located, and the mode in which its business is to be conducted, and file a copy thereof, signed by such officers and directors, in the office of the clerk of each county in which it proposes to do

business, if a county corporation, and in the office of the clerk of each town where it proposes to do business, if a town corporation, and in the office of the secretary of state.

§ 264. **Commencement of business.**—The persons signing such certificate, after having filed the statement prescribed in the preceding section, may open books to receive propositions and enter into agreements in the manner authorized by this article, but the corporation shall not do any business of insurance, or issue any policy until bona fide agreements have been entered into for the insurance of property of an amount not less than one hundred thousand dollars for each county embraced within the territory in which it proposes to do business, if a county corporation, and of fifty thousand dollars, if a town corporation.

§ 265. **Records.**—The directors of every such corporation shall procure proper books in which the secretary shall keep a perfect record of all transactions of the corporation and of the board of directors, which shall show at all times fully and truly the condition, affairs and business of the corporation, and which shall be open for the inspection of every member of the corporation every day from nine o'clock in the forenoon to four o'clock in the afternoon, Sundays and legal holidays excepted.

§ 266. **Policies of insurance.**—The directors of every such corporation may issue policies of insurance signed by their president and secretary, agreeing, in the name of the corporation, if formed for the purpose specified in the first subdivision of section 261 to pay all damages not exceeding the amount insured, which shall not be more than seven thousand dollars in any one risk, done to dwelling houses, barns and their contents, and other property not more hazardous, and buildings not more hazardous in cities and villages detached at such distances as the by-laws of the corporation may prescribe, and their contents and live-stock owned on the premises, caused by fire or lightning, during the time mentioned in the policy, which shall not be less than one nor more than five years; or if formed for the purposes specified in subdivision two of section 261, agreeing to pay all damages and expenses which may be sustained or incurred by the holder thereof from the larceny of domestic animals belonging to him or in his possession, and in the recovery thereof and in the apprehension of the thief or thieves, or in the prevention of the larceny of such animals or of horses, wagons, sleighs, harnesses and robes, which shall not be more than five hundred dollars in any one case.

Every corporation may issue more than one policy in the case of

fire insurance to one person, firm or corporation having separate or detached buildings, which it is not prohibited from insuring by this article or its by-laws. Every policy issued shall have attached thereto a printed copy of the by-laws and regulations of the corporation. Every corporation transacting the business of town and county co-operative insurance as provided for by this article, is hereby exempted from the provisions of section 121 of this chapter.

§ 267. **Contract of members.**—Every person insured in and by any such corporation shall give his undertaking in such form as the corporation may prescribe, to pay his pro rata share to the corporation of all losses or damages sustained by any member thereof from any cause specified in the policy, which undertaking shall be filed by the secretary in the office of the corporation. He shall also pay such reasonable sum for policies and expenses, and within such time as may be required by the by-laws. Every policy holder sustaining a loss or damage from any cause specified in the policy shall immediately notify the president or secretary of the corporation of such loss or damage, and the officers of the corporation shall at once proceed to ascertain and adjust such loss or damage in the manner provided by the charter and by-laws and the provisions of this article.

§ 268. **Classification of risks; borrowing money; assessments.**—Every such corporation may, if a fire insurance corporation, classify the property or buildings insured therein at the time of insurance and issue policies under different rates according to the risk from fire, to which they may be subject. In the case of any corporation formed under this article or any act repealed by this chapter for the formation of town and county co-operative insurance corporations, if the amount of any loss or damage ascertained exceeds in amount the cash on hand of the corporation, such of its officers as may be authorized by the by-laws to do so, shall convene the directors or executive committee, who may borrow money on the credit of the corporation sufficient to pay the loss, or make an assessment upon all the property insured, pro rata, according to its classification or according to the amount insured, as may be provided in the by-laws, sufficient to pay what the cash in hand falls short of paying, or for the whole loss or damages, as the directors or executive committee may decide to be for the best interests of the corporation. If the directors or executive committee deem it to be for the interests of the corporation, they may make an estimate of such sums as in their judgment will be necessary to pay all losses, damages and expenses for the current year and supply any deficiency in the pre-

ceding year, and proceed to assess, levy and collect the same of the members of the corporation, at such times as in their discretion will be most advantageous to the corporation. Such assessment shall be made pro rata upon all the property at such time insured, according to its classification or according to the amount insured, sufficient to pay the amount so estimated. Not more than one such general assessment shall be made in any one year, nor shall any such assessment be made if more than ten per cent of any previous assessment shall be in the treasury of the corporation and not required for losses actually suffered. No assessment shall be invalid because made in whole or in part for the purpose of paying any money borrowed by the directors or executive committee, which has been used in the payment of any claim for loss or damage against the corporation.

§ 269. Notice of assessments.—The secretary shall within thirty days after the assessment has been made, notify every member of the corporation by written or printed notice signed by him, that an assessment has been made and the amount due from him as his share of the loss or damage, or his share of the general assessment for the current year as determined by the directors or executive committee, and the time when, and to whom, such amount must be paid. Such time shall not be less than thirty days nor more than sixty days from the service of the notice, which may be served personally or by mail, and if by mail, service shall be deemed complete when deposited in the post-office at the place where the principal office of the corporation is located, directed to each member at his place of residence or business and postage prepaid. The expense and cost of collection of the assessment shall be regulated by the by-laws.

§ 270. Collection of unpaid assessments.—An action may be brought by the corporation against any member thereof to recover all assessments which he may neglect or refuse to pay made upon him under the provisions of this article or the by-laws of the corporation. If the corporation is compelled to bring any such action in order to collect any such assessment, it may recover the amount so assessed with fifty per cent thereof to be added thereto in addition to lawful interest, as a penalty for such neglect and refusal to pay within the time required. Any member who neglects or refuses to pay his assessment, may for such reason, or for any other reason satisfactory to the directors or executive committee, be excluded by a majority of the directors or executive committee, as the by-laws may prescribe, from the corporation, and when thus excluded, the

secretary shall cancel or withdraw his policy or policies which shall prevent him recovering for any loss or damage sustained after such exclusion. Such member shall remain liable for the payment of any assessment made prior to his exclusion and for the penalty above provided, in case an action has been or shall be brought against him therefor. The officers of every such corporation shall proceed to collect all assessments within thirty days after the expiration of the notice to pay the same, and neglect or refusal on their part to endeavor to collect such assessments or to perform any of the duties imposed by this article, shall render them liable individually for the amount lost to any person who loses by their neglect or refusal, and an action may be maintained by such person against such officers to collect such amount. If any member of the corporation shall be excluded therefrom as herein provided and the policy issued to him canceled, the secretary shall forthwith enter such cancellation and the date thereof on the record of policies kept in the office of the corporation and serve notice of such cancellation on the member so excluded either personally or by mail; and if by mail the postage thereon shall be prepaid, and it shall be directed to such member at his post-office address named in his application for insurance, and from and after personal service of such notice, or five days after mailing such notice as herein required, such policy shall be canceled and all liability of the corporation by virtue thereof shall cease and determine; but the owner of the policy shall be entitled to the repayment of an equitable portion of all unearned money to which he has contributed.

§ 271. **Restrictions of insurance.**—No corporation formed for the purpose specified in subdivision one of section 261 shall insure any buildings or property out of the limits of the territory comprised in its certificate of incorporation, except when a member of the corporation, who has a farm extending beyond the line of such limits on which he resides, has buildings or property on that part beyond such line, in which case such buildings and their contents may be insured, with his other buildings; nor shall any such corporation insure any property other than dwelling-houses, barns and their contents and live stock owned on such property, other property not more hazardous, buildings in incorporated villages or cities detached such distance from any other building as the by-laws of the corporation may prescribe, and their contents and live stock owned on such premises.

§ 272. **Annual election.**—The directors of every corporation formed under this article, or under any similar act repealed by this

chapter, shall be chosen by ballot at the annual meeting of the corporation, which shall be held on the second Tuesday of January in each year unless some other day be designated by the by-laws of the corporation. At such meeting every person insured shall have one vote and shall be entitled to vote by proxy under such rules and regulations as may be prescribed by the by-laws, unless prohibited by such by-laws.

**§ 273. Annual statement.**—The president and secretary of every such corporation shall make a statement under oath, showing the condition of the corporation on the thirty-first day of December of each year, which shall contain the amount and kind of property insured, the number of policies issued from the time of the organization of the corporation up to the time of making the statement, the number issued during the year last past, the amount of insurance accepted and amount withdrawn, expired and canceled during the year, the whole amount of insurance in force on December thirty-first, the amount of moneys received by the corporation during the year, the amount of disbursements, specifying the amount paid for fees, salaries and commissions, and all other matters of interest to the corporation or members thereof, which statement, or a certified copy thereof, shall be filed in the town clerk's office of the town where the office of the corporation is located, if a town insurance corporation, and in the clerk's office of each county comprised within the territorial limits of the corporation, if a county corporation, and with the secretary of state, on or before the first day of February next following. No such corporation shall be required to make any report or statement, nor perform any requirement not contained in this article or in the by-laws of the corporation.

**§ 274. Withdrawal of members; new members.**—Any member of any such corporation may withdraw therefrom at any time by ten days' notice in writing to the secretary and paying his share of all claims existing against the corporation, and surrendering his policy or policies. Members may be admitted who reside or own property within the territorial limits of the corporation, upon the same terms and conditions as the original members, subject to the by-laws of the corporation. Non-residents who own property which may be insured in any such corporation may become members for the purpose of having such property insured, and shall have all the rights and privileges of the corporation and be accountable as other members, but shall not be eligible to hold office in the corporation.

**§ 275. Restrictions as to business.**—No corporation shall be formed under this article for the purpose of transacting the business



of insurance not specified in either subdivision one or two of section 261, and no such corporation shall be formed for the purpose of transacting the business specified in both subdivisions or partly in both, and no such corporation shall insure against any losses except such as are specified in the subdivision under which it is incorporated for the purpose of making insurances.

§ 276. **By-laws.**— Every such corporation may make and enforce such by-laws not inconsistent with law for its regulation as may be prescribed by a vote of two-thirds of its directors at any meeting thereof. Amendments may be made to such by-laws by a like vote of the directors at any regular meeting thereof, if presented to the president at least three months previous to the meeting. The by-laws may also provide for the number, kind and compensation of its officers and the security to be given by any officer, and may designate the amount of money that may be kept on hand, the manner of disbursing the same, and make provisions for books of record of the transactions of the corporation.

§ 277. **Reorganization of existing corporation.**— Any corporation already doing a business of insurance upon the principles prescribed in this article may become organized hereunder and possess all its powers and be subject to the restrictions and regulations required herein upon filing a statement of its condition at the time containing the requirements of section 263, in the offices specified in such section. Thereafter such corporation shall be subject to the provisions of this article, and the policies theretofore issued by it shall be as valid, and the rights and powers of the officers and members shall be the same in all respects as if it had been originally organized under this article.

§ 278. **Limitation of business ; extension of territorial limits.**— No corporation formed under the provisions of this article, or any such corporation formed under any similar act repealed by this chapter, shall transact business in more than three counties, which shall be designated in the certificate of incorporation. Any such corporation organized and doing business under the provisions of any act repealed by this chapter, or which may be hereafter organized and do business under the provisions of this article, in one county or two adjoining counties, may extend its business into any number of counties, not exceeding three in all, by filing in the office of the clerk of such adjoining county or counties a duly certified copy of the certificate and statement filed in the office of the secretary of state under the provisions of section 263, and filing in the office of the secretary of state and of the county clerk of each county comprised in its terri-

torial limits, a certificate signed by at least two-thirds of its directors, stating the counties in which such corporation proposes to do business; and upon filing such certificates and certified copies as herein provided, any such corporation shall possess all the business and corporate powers, rights and privileges in the counties named in such certificate not exceeding three, and be subject to the same liabilities, as if originally organized under a certificate specifying the same counties as the territorial limits of such corporation.

§ 279. Existing town corporation may extend itself to entire county.—Any such corporation already organized as a town corporation and doing a business of insurance upon the principles prescribed in this article in one or more towns in any county, may extend its business to the entire county, by filing in the office of the clerk of such county a duly certified copy of the certificate and statement filed in the office of the secretary of state under the provisions of section 263 of this article, and also filing in the office of the secretary of state a certificate signed by at least two-thirds of the directors of the corporation, stating the county in which such corporation intends to do business, and the name of such corporation which shall include the name of such county; and upon filing such certificate and certified copies as herein provided, any such corporation shall possess all the business and corporate powers, rights and privileges in the county named in the certificate and be subject to the same liabilities as if originally organized under a certificate specifying such county as its territorial limits. Policies theretofore issued by any such town corporation shall be deemed to have been issued by such corporation as reorganized, and shall be valid and enforced in the same manner in all respects as if they had been originally issued by such town corporation, and the board of directors of such town corporation in office at the time of the reorganization of such corporation as herein provided, shall be the directors of such corporation until the second Tuesday of January next after such reorganization, at which time a new board of directors shall be chosen as provided in this article.

## ARTICLE X.

### MISCELLANEOUS PROVISIONS.

SECTION 290. Laws repealed.

291. Saving clause.

292. Construction.

293. When to take effect

§ 290. Laws repealed.—Of the laws enumerated in the sched-

nle hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

§ 291. **Saving clause.**—The repeal of a law, or any part of it specified in the annexed schedule, shall not affect or impair any act done, or right accruing, accrued, or acquired, or penalty, forfeiture or punishment incurred prior to October 1, 1892, under or by virtue of the laws so repealed, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such laws had not been repealed; and all actions or proceedings, civil or criminal, commenced under or by virtue of the laws so repealed and pending September 30, 1892, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing, unless it shall be otherwise specially provided by law.

§ 292. **Construction.**—The provisions of this chapter so far as they are substantially the same as those of laws existing on September 30, 1892, shall be construed as a continuation of such laws, modified or amended, according to the language employed in this chapter and not as new enactments, and shall be applicable to all corporations formed under laws repealed by this chapter. References in laws not repealed to provisions of law incorporated into this chapter and repealed, shall be construed as applying to the provisions so incorporated. Nothing in this chapter shall be construed to amend or repeal any provision of the Penal or Criminal Code.

§ 293. **When to take effect.**—This chapter shall take effect on October 1, 1892.

SCHEDULE OF LAWS REPEALED.

Revised Statutes..... Part I, ch. XX, title XXI.... All.		
Laws of	Chapter	Sections
1840.....	287.....	All.
1848.....	205.....	All.
1849.....	178.....	All.
1849.....	308.....	All.
1851.....	95.....	All.
1851.....	188.....	All.
1852.....	123.....	All.
1853.....	463.....	All.
1853.....	466.....	All.
1853.....	528.....	All.
1853.....	551.....	All.
1854.....	224.....	All.

LAWS OF	Chapter	Sections
1854.....	369.....	All.
1855.....	75.....	All.
1855.....	292.....	All.
1857.....	28.....	All.
1857.....	38.....	All.
1857.....	469.....	All.
1857.....	548.....	All.
1858.....	255.....	All.
1859.....	168.....	All.
1859.....	263.....	All.
1859.....	366.....	All.
1860.....	328.....	All.
1861.....	92.....	All.
1861.....	326.....	All.
1861.....	334.....	All.
1862.....	6.....	All.
1862.....	300.....	All.
1862.....	367.....	All.
1862.....	412.....	All.
1863.....	242.....	All.
1864.....	425.....	All.
1864.....	563.....	All.
1865.....	199.....	All.
1865.....	328.....	All.
1865.....	694.....	All.
1866.....	298.....	All.
1866.....	514.....	All.
1866.....	525.....	All.
1866.....	577.....	All.
1866.....	785.....	All.
1866.....	825.....	All.
1866.....	843.....	All.
1867.....	91.....	All.
1867.....	442.....	All.
1867.....	574.....	All.
1867.....	708.....	All.
1867.....	709.....	All.
1868.....	118.....	All.
1868.....	318.....	All.
1868.....	482.....	All.
1868.....	623.....	All.
1868.....	731.....	All.
1868.....	732.....	All.
1869.....	404.....	All.
1869.....	634.....	All.
1869.....	829.....	All.
1869.....	902.....	All.
1870.....	476.....	All.
1871.....	608.....	All.
1871.....	709.....	All.

the names and post-office addresses of the directors for the first year, the term of its existence, not exceeding fifty years, the name of the town or towns, county or counties, in which its operations are to be carried on, the name of the town or city and county in this state in which its principal place of business is to be situated, the amount of its capital stock, which shall not be larger in amount than the fair aggregate value of the property, franchises and rights of such corporations, and the number of shares into which the same is to be divided, the manner of distributing such capital stock among the holders thereof, and if such corporations, or either of them, shall have been organized for the purpose of carrying on any part of its business in any place out of this state, the agreement shall so state, with such other particulars as they may deem necessary.

**§ 9. Submission of consolidation agreement to stockholders.** — Such agreement shall be submitted to the stockholders of each of such corporations, at a meeting thereof to be called upon notice of at least two weeks, specifying the time, place and object thereof, and addressed to each at his last known post-office address, and deposited in the post-office, postage prepaid, and published for at least two successive weeks in one of the newspapers in each of the counties of this state in which either of such corporations shall have its place of business, and if such agreement shall be approved at each of such meetings of the respective stockholders separately, by the vote by ballot of the stockholders owning at least two-thirds of the stock, the same shall be the agreement of such corporations, and a sworn copy of the proceedings of such meetings, made by the secretaries thereof, respectively, and attached thereto, shall be presumptive evidence of the holding and action of such meetings. Such agreement and verified copy of proceedings of such meetings shall be made in duplicate, one of which shall be filed in the office of the secretary of state, and the other in the office of the clerk of the county where the principal business office of the new corporation is to be situated in this state, and thereupon such corporations shall be merged into the new corporation specified in such agreements, to be known by the corporate name therein mentioned, and the provisions of such agreement shall be carried into effect as therein provided. If any stockholder, not voting in favor of such agreement to consolidate, shall at such meeting, or within twenty days thereafter, object to such consolidation and demand payment for his stock, such stockholder or such new corporation, if the consolidation takes effect at any time thereafter, may at any time within sixty

days after such meeting apply to the supreme court at any special term thereof held in the district in which any county is situated in which such new corporation may have its place of business, upon at least eight days notice to the new corporation, for the appointment of three persons to appraise the value of such stock and the court shall appoint three such appraisers and designate the time and place of their first meeting, with such directions in regard to their proceedings as shall be deemed proper, and also direct the manner in which payment for such stock shall be made to such stockholder. The court may fill any vacancy in the board of appraisers occurring by refusal or neglect to serve or otherwise. The appraisers shall meet at the time and place designated, and they or any two of them, after being duly sworn honestly and faithfully to discharge their duties, shall estimate and certify the value of such stock at the time of such dissent, and deliver one copy to such new corporation, and another to such stockholder if demanded; the charges and expenses of the appraisers shall be paid by the new corporation. When the new corporation shall have paid the amount of such appraisal, as directed by the court, such stockholder shall cease to have any interest in such stock and in the corporate property of such corporation, and such stock may be held or disposed of by such new corporation.

**§ 10. Powers of consolidated corporations.**—Such new corporation in addition to the general powers of corporations shall enjoy the rights, franchises and privileges possessed by each of the corporations so consolidated, subject to the restrictions, liabilities, duties and provisions contained in this chapter so far as the same may be applicable to the purposes for which it shall have been organized and expressed in the agreement for consolidation, and may prosecute or carry on any kind of business which each of the consolidating corporations was authorized by law to conduct.

**§ 11. Transfer of property of old corporations to consolidated corporations.**—Upon such consolidation and organization of such new corporation, all and singular the rights, privileges, franchises and interests of every kind belonging to or enjoyed by the corporations so consolidated, and every species of property, real, personal and mixed, and things in action thereunto belonging, mentioned in such agreement of consolidation, shall be deemed to be transferred and vested in, and may be enjoyed by, such new corporation, without any other deed or transfer; and such new corporation shall hold and enjoy the same, and all rights of prop-



## CHAP. 691.

AN ACT to amend the business corporations law.

APPROVED by the Governor, May 18, 1892. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

The business corporations law is amended to read as follows, to take effect immediately:

### CHAPTER XLI OF THE GENERAL LAWS.

#### THE BUSINESS CORPORATIONS LAW.

SECTION 1. Short title and limitation of chapter.

2. Incorporation.
3. Restriction upon commencement of business.
4. Reorganization of existing corporations.
5. Payment of capital stock.
6. Full liability corporations.
7. Extension of business.
8. Consolidation of corporations.
9. Submission of consolidation agreement to stockholders.
10. Powers of consolidated corporations.
11. Transfer of property of old corporations to consolidated corporations.
12. Rights of creditors of old corporations.
13. District steam corporations.
14. Examination of meters by agent of district steam corporations.
15. Entry by agent of district steam corporation to cut off steam.
16. Water companies.

SECTION 1. Short title and limitation of chapter.—This chapter shall be known as the business corporations law, but no corporation shall be formed under it for the purpose of carrying on any business which might be carried on by a corporation formed under any other general law of the state authorizing the formation of corporations for the purpose of carrying on such business.

§ 2. Incorporation.—Three or more persons may become a corporation for the purpose of carrying on any lawful business by making, signing, acknowledging and filing a certificate which shall contain:

1. The name of the proposed corporation;
2. The objects for which it is to be formed, including the nature and locality of its business;

3. The amount and description of the capital stock ;

4. The number of shares of which the capital stock shall consist, each of which shall not be less than five nor more than one hundred dollars ;

5. The location of its principal business office ;

6. Its duration, which shall not exceed fifty years ;

7. The number of its directors, not less than three nor more than thirteen, who shall each be a stockholder having at least five shares of stock ;

8. The names and post-office addresses of the directors for the first year ;

9. The post-office addresses of the subscribers and a statement of the number of shares of stock which each agrees to take in the corporation. The certificate may contain any other provision for the regulation of the business and the conduct of the affairs of the corporation and any limitation upon its powers, and upon the powers of its directors and stockholders, which does not exempt them from any obligation or from the performance of any duty imposed by law.

§ 3. **Restriction upon commencement of business.**—No such corporation shall engage in the transaction or management of its business until one-half of its capital stock shall have been subscribed ; nor until it shall have filed in the offices where its certificates of incorporation were filed, a further certificate stating that one-half of its capital stock has been in good faith subscribed, executed and acknowledged by its president or vice president and its treasurer or secretary, and verified by them to the effect that the statements contained in it are true.

§ 4. **Reorganization of existing corporations.**—Any corporation heretofore organized, except such corporations as are prohibited by the first section of this chapter from organizing thereunder, may reincorporate under this chapter in the following manner : The directors of the corporation shall call a meeting of the stockholders thereof by publishing a notice, stating the time, place and object of the meeting, signed by at least a majority of them, in a newspaper of the county in which its principal business office is situated, once a week, for at least three successive weeks, and by serving upon each stockholder at least three weeks before the meeting, a copy of such notice either personally or by depositing it in the post-office, postage prepaid, addressed to him at his last known post-office address. The stockholders shall meet at the time

and place specified in the notice, and organize by choosing one of the directors chairman, and a suitable secretary, and shall then take a vote of those present in person or by proxy upon the proposition to re-incorporate under this chapter, and if votes representing a majority of all the stock of the corporation shall be cast in favor of the proposition, the officers of the meeting shall execute and acknowledge a certificate of the proceedings, which certificate shall also contain the statements required by section two of this chapter, and shall be filed, together with a copy of the by-laws of the corporation, in the offices where certificates of incorporation under this chapter are required to be filed. From the time of such filing such corporation shall be deemed to be a corporation organized under this chapter, and if originally organized or incorporated under a general law of this state, it shall have and exercise all such rights and franchises as it has heretofore had and exercised under the laws pursuant to which it was originally incorporated and such re-organization shall not in any way affect, change or diminish the existing liabilities of the corporation.

§ 5. **Payment of capital stock.**—One-half of the capital stock of every such corporation shall be paid in within one year from its incorporation, or the corporation shall be dissolved, and the directors within thirty days after such payment shall make a certificate of the fact of such payment, which shall be signed and acknowledged by a majority of the directors, and verified by the president or vice-president and secretary or treasurer, and filed in the offices where the certificates of incorporation are filed. The dissolution of any such corporation for any cause shall not take away or impair any remedy against it, its stockholders or officers, for any liabilities incurred previous to its dissolution.

§ 6. **Full liability corporations.**—Every corporation formed under this chapter may be or become a full liability corporation by inserting a statement in the certificate of incorporation, that the corporation thereby formed is intended to be a full liability corporation; and in case of an existing corporation, which is not a full liability corporation, it may become such by filing in the offices where certificates of incorporation are required to be filed, a supplemental certificate stating that thereafter the corporation intends to be a full liability corporation, which certificate shall be executed and acknowledged by the president and treasurer of the corporation or by the

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\*So in the original.

board of directors, and shall have annexed thereto a copy of a resolution, adopted by a two-thirds vote of the board of directors, and the written consent of all the stockholders of the corporation, authorizing and consenting to the change of the corporation to a full liability corporation. If the corporation is formed as or becomes a full liability corporation all the stockholders of the corporation shall be severally individually liable to its creditors for all its debts and liabilities, and may be joined as defendants in any action against it. No execution shall issue against any stockholder individually until execution has been issued against the corporation and returned unsatisfied, and all the stockholders shall contribute a proportionate share, according to the number of shares of stock owned by each, of the amount paid by any stockholder on a judgment recovered against him individually for a debt of the corporation, and he may recover from the other stockholders in the corporation in a joint or several action the proper portion due by them and each of them, of the amount paid by him on any such judgment.

§ 7. **Extension of business.**—Any corporation incorporated under this article within one year from the date of its certificate of incorporation, may extend its business beyond that mentioned in its original certificate, providing the proposed extension of business shall be of the same general character as that stated in and which might have been properly included in the original certificate, by executing and filing as required for the original certificate, an amended certificate stating the extension of business proposed and that the same has been authorized by a vote of stockholders representing three-fourths of the capital stock, at a meeting called and held, as provided in section two, and a copy of the proceedings of such meeting, verified by the affidavit of at least three of the directors present thereat, shall be filed with such amended certificate.

§ 8. **Consolidation of corporations.**—Any two or more corporations organized under the laws of this state for the purpose of carrying on any kind of business of the same or of a similar nature, which a corporation organized under this chapter might carry on, may consolidate such corporations into a single corporation, as follows: The respective boards of directors of such corporations may enter into and make an agreement, under their respective corporate seals, for the consolidation of such corporations prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number of directors who shall manage its affairs, not less than three nor more than thirteen

the names and post-office addresses of the directors for the first year, the term of its existence, not exceeding fifty years, the name of the town or towns, county or counties, in which its operations are to be carried on, the name of the town or city and county in this state in which its principal place of business is to be situated, the amount of its capital stock, which shall not be larger in amount than the fair aggregate value of the property, franchises and rights of such corporations, and the number of shares into which the same is to be divided, the manner of distributing such capital stock among the holders thereof, and if such corporations, or either of them, shall have been organized for the purpose of carrying on any part of its business in any place out of this state, the agreement shall so state, with such other particulars as they may deem necessary.

**§ 9. Submission of consolidation agreement to stockholders.** — Such agreement shall be submitted to the stockholders of each of such corporations, at a meeting thereof to be called upon notice of at least two weeks, specifying the time, place and object thereof, and addressed to each at his last known post-office address, and deposited in the post-office, postage prepaid, and published for at least two successive weeks in one of the newspapers in each of the counties of this state in which either of such corporations shall have its place of business, and if such agreement shall be approved at each of such meetings of the respective stockholders separately, by the vote by ballot of the stockholders owning at least two-thirds of the stock, the same shall be the agreement of such corporations, and a sworn copy of the proceedings of such meetings, made by the secretaries thereof, respectively, and attached thereto, shall be presumptive evidence of the holding and action of such meetings. Such agreement and verified copy of proceedings of such meetings shall be made in duplicate, one of which shall be filed in the office of the secretary of state, and the other in the office of the clerk of the county where the principal business office of the new corporation is to be situated in this state, and thereupon such corporations shall be merged into the new corporation specified in such agreements, to be known by the corporate name therein mentioned, and the provisions of such agreement shall be carried into effect as therein provided. If any stockholder, not voting in favor of such agreement to consolidate, shall at such meeting, or within twenty days thereafter, object to such consolidation and demand payment for his stock, such stockholder or such new corporation, if the consolidation takes effect at any time thereafter, may at any time within sixty

days after such meeting apply to the supreme court at any special term thereof held in the district in which any county is situated in which such new corporation may have its place of business, upon at least eight days notice to the new corporation, for the appointment of three persons to appraise the value of such stock and the court shall appoint three such appraisers and designate the time and place of their first meeting, with such directions in regard to their proceedings as shall be deemed proper, and also direct the manner in which payment for such stock shall be made to such stockholder. The court may fill any vacancy in the board of appraisers occurring by refusal or neglect to serve or otherwise. The appraisers shall meet at the time and place designated, and they or any two of them, after being duly sworn honestly and faithfully to discharge their duties, shall estimate and certify the value of such stock at the time of such dissent, and deliver one copy to such new corporation, and another to such stockholder if demanded; the charges and expenses of the appraisers shall be paid by the new corporation. When the new corporation shall have paid the amount of such appraisal, as directed by the court, such stockholder shall cease to have any interest in such stock and in the corporate property of such corporation, and such stock may be held or disposed of by such new corporation.

§ 10. **Powers of consolidated corporations.**—Such new corporation in addition to the general powers of corporations shall enjoy the rights, franchises and privileges possessed by each of the corporations so consolidated, subject to the restrictions, liabilities, duties and provisions contained in this chapter so far as the same may be applicable to the purposes for which it shall have been organized and expressed in the agreement for consolidation, and may prosecute or carry on any kind of business which each of the consolidating corporations was authorized by law to conduct.

§ 11. **Transfer of property of old corporations to consolidated corporations.**—Upon such consolidation and organization of such new corporation, all and singular the rights, privileges, franchises and interests of every kind belonging to or enjoyed by the corporations so consolidated, and every species of property, real, personal and mixed, and things in action thereunto belonging, mentioned in such agreement of consolidation, shall be deemed to be transferred and vested in, and may be enjoyed by, such new corporation, without any other deed or transfer; and such new corporation shall hold and enjoy the same, and all rights of prop-



the rent or remuneration for such steam, or for the meter, device, pipes, fittings or appliances, let by such corporation for supplying steam, or for ascertaining the quantity of steam consumed, or the quantity of water resulting from the condensation of the steam consumed, agreed upon or due for the same, as required by his, their or its contract with such corporation, the latter may thereupon stop and prevent the steam from entering the premises of such person, persons, corporation or association, so neglecting or refusing to pay such rent or remuneration, and may also in any case, in which a person is liable to pay a forfeiture, or to a fine or imprisonment, by reason of any act to or towards such corporation or its property for which such forfeiture, fine or penalty is imposed by law, stop and prevent the steam from entering the premises of the person so liable, or if such person be an officer or agent of any corporation or association, stop and prevent the steam from entering the premises of such corporation or association. In all cases in which such corporation is authorized to stop and prevent the steam from entering any premises, it may, by its officers, agents, or workmen, enter into or on such premises between the hours of eight o'clock in the forenoon and six o'clock in the afternoon and cut off, disconnect, separate and carry away any meter, device, pipe, fitting or other property of the corporation; and may cut off, disconnect and separate any meter, device, pipe or fitting, whether the property of the corporation or not, from the mains or pipes of such corporation.

§ 16. **Water companies.**—No corporation shall be formed under this chapter for the purpose of accumulating, storing, conducting, furnishing or supplying water for domestic, manufacturing or municipal purposes in the city of New York.

Any corporation formed for the purpose of supplying any other city of the state with water, if unable to agree with the owners of any real property required for the purpose of the corporation for the purchase thereof may acquire title thereto by condemnation.

# **GENERAL LAWS**

**OF THE**

## **STATE OF NEW YORK,**

**PASSED IN THE YEAR 1890, AS AMENDED IN THE YEARS  
1891 AND 1892.**

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**Published in this Volume in pursuance of Chapter 623 of the Laws of 1892.**

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### **THE RAILROAD LAW**

**BEING CHAPTER 565 OF THE LAWS OF 1890, AS AMENDED BY CHAPS.  
362 AND 367 OF THE LAWS OF 1891, AND BY CHAPS. 306,  
460, 534, 676, 700 AND 702 OF THE LAWS OF 1892.**

**AN ACT in relation to railroads constituting chapter thirty-nine  
of the general laws.**

### **CHAPTER XXXIX OF THE GENERAL LAWS.**

#### **THE RAILROAD LAW.**

- ARTICLE 1. Organization; general powers; location (§§ 1-21).**  
2. Construction; operation; management (§§ 30-59).  
3. Consolidation; lease; sale; re-organization (§§ 70-88).  
4. Street surface railroads (§§ 90-110).  
5. Other railroads in cities and counties (§§ 120-142).  
6. Board of railroad commissioners (§§ 150-171).

#### **ARTICLE I.**

##### **ORGANIZATION, GENERAL POWERS, LOCATION.**

- SECTION 1. Short title.**  
2. Incorporation.  
3. Supplemental certificate.  
4. Additional powers conferred:  
1. Entry upon lands for purpose of survey.  
2. Acquisition of real property.  
3. Construction of road.  
4. Intersection of streams, highways, plank-roads, turnpikes and  
canals.  
5. Intersection of other railroads.  
6. Buildings and stations.  
7. Transportation of persons and property.  
8. Time and manner of transportation.  
9. Purchase of lands and stock in other states.

**SECTION 5. When corporate powers to cease.**

6. Location of route.
7. Acquisition of title to real property
8. Railroads through public lands.
9. Railroads through Indian lands.
10. Railroads through Chautauqua assembly grounds.
11. Intersection of highways, additional lands for.
12. Intersection of other railroads.
13. Change of route, grade or terminus.
14. Construction of part of line in another state.
15. Two roads having the same location.
16. Tunnel railroads.
17. Railroads in foreign countries.
18. Additional corporate powers of such road.
19. Location of principal office of such road.
20. Individual, joint-stock association, or other corporation may lay down and maintain railroad tracks in certain cases.
21. When electric light and power corporation may become a railroad corporation.

*[Thus amended by L. 1892, chap. 676.]*

**SECTION 1. Short title.**—This chapter shall be known as the railroad law.

**§ 2. Incorporation.**—Fifteen or more persons may become a corporation, for the purpose of building, maintaining and operating a railroad, or of maintaining and operating a railroad already built, not owned by a railroad corporation, or for both purposes, by executing, acknowledging and filing a certificate, in which shall be stated:

1. The name of the corporation.
2. The number of years it is to continue.
3. The kind of road to be built or operated.
4. Its length and termini.
5. The name of each county in which any part of it is to be located.
6. The amount of capital stock, which shall not be less than ten thousand dollars for every mile of road built, or proposed to be built, except a narrow-gauge road, when it shall not be less than three thousand dollars for every such mile.
7. The number of shares into which the capital stock is to be divided.
8. If the capital stock is to consist of common and preferred stock, the amount of each class and the rights and privileges of the latter over the former.
9. The names and post-office addresses of the directors of the cor-

poration, not less than nine, who shall manage its affairs for the first year.

10. The place where its principal office is to be located.

11. If a street surface railroad, the names and description of the streets, avenues and highways in which the road is to be constructed.

12. If it is to be a railway corporation, specified in article five of this chapter, the statements required by that article to be inserted in the certificate of incorporation.

13. The name and post-office address of each subscriber to the certificate and the number of shares of stock he agrees to take.

Such certificate shall have indorsed thereon, or annexed thereto, to be taken as a part thereof, an affidavit of at least three of such directors, that at least ten per cent of the minimum amount of capital stock authorized by law has been subscribed thereto, and paid in good faith and in cash to the directors named in the certificate, and that it is intended in good faith to build, maintain and operate the road mentioned therein. In case of a railway corporation specified in article five of this chapter, the affidavit of the directors shall show that the full amount of such capital stock has been in good faith subscribed, and there shall be annexed to the certificate of incorporation and as a part thereof the certificate of the railroad commissioners showing the organization of the corporation for the purposes mentioned in the certificate.

The filing of every certificate, where the amount of stock required by this section has not been in good faith subscribed and paid in cash, shall be void. [*Thus amended by L. 1892, chap. 676.*]

§ 3. Supplemental certificate.—If the names and places of residence of the directors of the corporation have been omitted from the certificate, when executed and acknowledged, and thereafter the requisite number of directors has been chosen at a meeting of the subscribers to the certificate, a supplemental certificate, containing their names and places of residence, may be filed with such certificate with the same force and effect as if the names and places of residence of the directors had been originally inserted therein.

§ 4. Additional powers conferred.—Subject to the limitations and requirements of this chapter, every railroad corporation, in addition to the powers given by the general and stock corporation laws, shall have power.

1. Entry upon lands for purposes of survey.—To cause the necessary examination and survey for its proposed railroad to be

made for the selection of the most advantageous route; and for such purpose, by its officers, agents or servants, to enter upon any lands or waters subject to liability to the owner for all damages done.

**2. Acquisition of real property.**—To take and hold such voluntary grants of real estate and other property as shall be made to it to aid in the construction, maintenance and accommodation of its railroad; and to acquire by condemnation such real estate and property as may be necessary for such construction, maintenance and accommodation in the manner provided by law, but the real property acquired by condemnation shall be held and used only for the purposes of the corporation during the continuance of the corporate existence.

**3. Construction of road.**—To lay out its road not exceeding six rods in width, and to construct the same; and, for the purpose of cuttings and embankments, to take such additional lands as may be necessary for the proper construction and security of the road; and to cut down any standing trees that may be in danger of falling on the road, upon making compensation therefor.

**4. Intersection of streams, highways, plank-roads, turnpikes and canals.**—To construct its road across, along or upon any stream, water-course, highway, plank-road, turnpike, or across any of the canals of the state, which the route of its road shall intersect or touch.

**5. Intersection of other railroads.**—To cross, intersect, join, or unite its railroad with any other railroad before constructed, at any point on its route and upon the ground of such other railroad corporation, with the necessary turnouts, sidings, switches, and other conveniences in furtherance of the objects of its connections.

**6. Buildings and stations.**—To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of its passengers, freight and business.

**7. Transportation of persons and property.**—To take and convey persons and property on its railroad by the power or force of steam or of animals, or by any mechanical power, except where such power is specially prescribed in this chapter and to receive compensation therefor.

**8. Time and manner of transportation.** To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor.

**9. Purchase of lands and stock in other states.**—To acquire and dispose of any real property in any other state through which

any part of its railroad is operated, and stock in any foreign corporation owning lands in another state for the purpose of securing for such railroad corporation in this state a permanent supply of fuel for its use, and stock of corporations in this state, formed for the purpose of erecting union railway depots.

10. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating its railroad and to issue and dispose of its bonds for any amount so borrowed, and to mortgage its property and franchises to secure the payment of any debts contracted by the company for the purposes aforesaid. [*Thus amended by L. 1892, chap. 676.*]

§ 5. When corporate powers to cease.—If any domestic railroad corporation shall not, within five years after its certificate of incorporation is filed, begin the construction of its road and expend thereon ten per cent of the amount of its capital, or shall not finish its road and put it in operation in ten years from the time of filing such certificate, its corporate existence and powers shall cease.

§ 6. Location of route.—Every railroad corporation, except a street surface railroad corporation and an elevated railway corporation, before constructing any part of its road in any county named in its certificate of incorporation, or instituting any proceedings for the condemnation of real property therein, shall make a map and profile of the route adopted by it in such county, certified by the president and engineer of the corporation, or a majority of the directors, and file it in the office of the clerk of the county in which the road is to be made. The corporation shall give written notice to all actual occupants of the lands over which the route of the road is so designated, and which has not been purchased by or given to it, of the time and place such map or profile were filed, and that such route passes over the lands of such occupants. Any such occupant or the owner of the land aggrieved by the proposed location, may, within fifteen days after receiving such notice, give ten days' written notice to such corporation and to the owners or occupants of lands to be affected by any proposed alteration, of the time and place of an application to a justice of the supreme court, in the judicial district where the lands are situated, by petition duly verified, for the appointment of commissioners to examine the route.

The petition shall state the objections to the route designated, shall designate the route to which it is proposed to alter the same, and shall be accompanied with a survey, map and profile of the route designated by the corporation, and of the proposed alteration thereof,



and copies thereof shall be served upon the corporation and such owners or occupants with the notice of the application. The justice may, upon the hearing of the application, appoint three disinterested persons, one of whom must be a practical civil engineer, commissioners to examine the route proposed by the corporation, and the route to which it is proposed to alter the same, and after hearing the parties, to affirm the route originally designated, or adopt the proposed alteration thereof, as may be consistent with the just rights of all parties and the public, including the owners or occupants of lands upon the proposed alterations; but no alteration of the route shall be made except by the concurrence of the commissioner who is a practical civil engineer, nor which will cause greater damage or injury to lands or materially greater length of road than the route designated by the corporation, nor which shall substantially change the general line adopted by the corporation.

The commissioners shall, within thirty days after their appointment, make and certify their written determination, which with the petition, map, survey and profile, and any testimony taken before them shall be immediately filed in the office of the county clerk of the county. Within twenty days after such filing, any party may, by written notice to the other, appeal to the general term of the supreme court from the decision of the commissioners, which appeal shall be heard and decided at the next term held in the department in which the lands of the petitioners or any of them are situated, for which the same can be noticed, according to the rules and practice of the court. On the hearing of such appeal, the court may affirm the route proposed by the corporation or may adopt that proposed by the petitioner.

The commissioners shall each be entitled to six dollars per day for their services, and to their reasonable and necessary expenses, to be paid by the persons who applied for their appointment. If the route of the road, as designated by the corporation, is altered by the commissioners, or by the order of the court, the corporation shall refund to the petitioner the amount so paid, unless the decision of the commissioners is reversed upon appeal taken by the corporation. No such corporation shall institute any proceedings for the condemnation of real property in any county until after the expiration of fifteen days from the service by it of the notice required by this section. Every such corporation shall transmit to the board of railroad commissioners the following maps, profiles and drawings exhibiting the characteristics of their road, to-wit:

A map or maps showing the length and direction of each straight line; the length and radius of each curve; the point of crossing of each town and county line, and the length of line of each town and county accurately determined by measurements to be taken after the completion of the road.

Whenever any part of the road is completed and used, such maps and profiles of such completed part shall be filed with such board within three months after the completion of any such portion and the commencement of its operation; and when any additional portion of the road shall be completed and used, other maps shall be filed within the same period of time, showing the additional parts so completed. If the route, as located upon the map and profile filed in the office of any county clerk, shall have been changed, it shall also cause a copy of the map and profile filed in the office of the railroad commissioners, so far as it may relate to the location in such county, to be filed in the office of the county clerk. [*Thus amended by L. 1892, chap. 676.*]

§ 7. Acquisition of title to real property.—All real property, required by any railroad corporation for the purpose of its incorporation, shall be deemed to be required for a public use. If the corporation is unable to agree for the purchase of any real property, or of any right, interest or easement therein, required for such purpose, or if the owner thereof shall be incapable of selling the same, or if after diligent search and inquiry the name and residence of such owner cannot be ascertained, it shall have the right to acquire title thereto by condemnation. It shall also have such right in the following cases:

1. Where title to real property has been acquired, or attempted to be acquired, and has been found to be invalid or defective.

2. Where its railroad shall be lawfully in possession of a lessee, mortgagee, trustee or receiver, and additional real property shall be required for the purpose of running or operating such railroad.

3. Where it shall require any further rights to lands or the use of lands for switches, turnouts, or for filling any structures of its road, or for constructing, widening or completing any of its embankments or roadbeds, by means of which greater safety or permanency may be secured, and such lands shall be contiguous to such railroad and reasonably accessible to the place where the same are to be used for such purpose or purposes.

4. Where it shall require any further right to lands or to the use of lands for the flow of water occasioned by railroad embankments

or structures now in use, or hereafter rendered necessary, or for any other purpose necessary for the operation of such railroad, or for any right to take and convey water from any spring, pond, creek or river to such railroad, for the uses and purposes thereof, together with the right to build or lay aqueducts or pipes for the purpose of conveying such water, and to take up, relay and repair the same, or for any right of way required for carrying away or diverting any water, stream or floods from such railroad for the purpose of protecting its road or for the purpose of preventing any embankment, excavation or structure of such railroad from injuring the property of any person who may be rendered liable to injury thereby.

Waters commonly used for domestic, agricultural or manufacturing purposes, shall not be taken by condemnation to such an extent as to injuriously interfere with such use in future. No railroad corporation shall have the right to acquire by condemnation any right or easement in or to any real property owned or occupied by any other railroad corporation, except the right to intersect or cross the tracks and lands owned or held for right of way by such other corporation, without appropriating or affecting any lands owned or held for depots or gravel beds. [*Thus amended by L. 1892, chap. 676.*]

§ 8. Railroads through public lands.—The commissioners of the land office may grant to any domestic railroad corporation any land belonging to the people of the state, except the reservation at Niagara and the Concourse lands on Coney Island, which may be required for the purposes of its road on such terms as may be agreed on by them; or such corporation may acquire title thereto by condemnation; and the county or town officers having charge of any land belonging to any county or town, required for such corporation for the purpose of its road, may grant such land to the corporation for such compensation as may be agreed upon.

§ 9. Railroads through Indian lands.—Any railroad corporation may contract with the chiefs of any nation of Indians, over whose lands it may be necessary to construct its railroad, for the right to make such road upon such lands, but such contract shall not vest in the corporation the fee to the land, nor the right to occupy the same for any purposes other than may be necessary for the construction, occupancy and maintenance of such railroad, and such contract shall not be valid or effectual until it shall be ratified by the county court of the county where the land shall be situated.

§ 10. Railroads through Chautauqua assembly grounds.—No railroad corporation shall build, construct or operate any railroad

in, upon, over or through the grounds, lands or premises owned by the Chautauqua assembly corporation in the town and county of Chautauqua, without the written consent of a majority of the board of trustees of such assembly corporation.

§ 11. **Intersection of highways, additional lands for.**—No railroad corporation shall erect any bridge or other obstruction across, in or over any stream or lake, navigated by steam or sail boats at the place where it may be proposed to be erected, nor shall it construct its road in, upon or across any street of any city without the assent of the corporation of such city, nor across, upon or along any highway in any town or street in any incorporated village, without the order of the supreme court of the district in which such highway or street is situated, made at a special term thereof, after at least ten days' written notice of the intention to make application for such order shall have been given to the commissioners of highways of such town, or board of trustees of the village in which such highway or street is situated. Every railroad corporation which shall build its road along, across or upon any stream, watercourse, street, highway, plankroad or turnpike, which the route of its road shall intersect or touch, shall restore the stream or watercourse, street, highway, plankroad and turnpike, thus intersected or touched, to its former state, or to such state as not to have unnecessarily impaired its usefulness, and any such highway, turnpike or plankroad may be carried by it, under or over its track, as may be found most expedient. Where an embankment or cutting shall make a change in the line of such highway, turnpike or plankroad desirable, with a view to a more easy ascent or descent, it may construct such highway, turnpike or plankroad, on such new line as its directors may select, and may take additional lands therefor by condemnation if necessary. Such lands so taken shall become part of such intersecting highway, turnpike or plankroad, and shall be held in the same manner and by the same tenure as the adjacent parts of the highway, turnpike or plankroad are held for highway purposes. Every railroad corporation shall pay all damages sustained by any turnpike or plankroad corporation in consequence of its crossing or occupation of any turnpike or plankroad, and in case of inability to agree upon the amount of such damages it may acquire the right to such crossing or occupation by condemnation.

§ 12. **Intersection of other railroads.**—Every railroad corporation, whose road is or shall be intersected by any new railroad, shall unite with the corporation owning such new railroad in forming the

necessary intersections and connections, and grant the requisite facilities therefor. If the two corporations cannot agree upon the amount of compensation to be made therefor or upon the line or lines, grade or grades, points or manner of such intersections and connections, the same shall be ascertained and determined by commissioners, one of whom must be a practical civil engineer and surveyor, to be appointed by the court, as is provided in the condemnation law. Such commissioners may determine whether the crossing or crossings of any railroad before constructed shall be beneath, at, or above the existing grade of such railroad, and upon the route designated upon the map of the corporation seeking the crossing or otherwise. All railroad corporations whose roads are or shall hereafter be so crossed, intersected or joined, shall receive from each other and forward to their destination all goods, merchandise and other property intended for points on their respective roads, with the same dispatch as, and at a rate of freight not exceeding the local tariff rate charged for similar goods, merchandise and other property, received at or forwarded from the same point for individuals and other corporations. [*Thus amended by L. 1892, chap. 676.*]

§ 13. Change of route, grade or terminus.—Every railroad corporation, except elevated railway corporations, may, by a vote of two-thirds of all its directors, alter or change the route or any part of the route of its road or its termini, or locate such route, or any part thereof, or its termini, in a county adjoining any county named in its certificate of incorporation, if it shall appear to them that the line can be improved thereby, upon making and filing in the clerk's office of the proper county a survey, map and certificate of such alteration or change. If the same is made after the corporation has commenced grading the original route, compensation shall be made to all persons for injury done by such grading to any lands donated to the corporation. But neither terminus can be changed, under this section, to any other county than one adjoining that in which it was previously located; nor can the route or terminus of any railroad be so changed in any town, county or municipal corporation, which has issued bonds and taken any stock or bonds in aid of the construction of such railroad without the written consent of a majority of the taxpayers appearing upon the last assessment-roll of such town, county or municipal corporation, unless such terminus, after the change, will remain in the same village or city as theretofore. No alteration of the route of any railroad after its construction shall

be made, or new line or route of road laid out or established, as provided in this section, in any city or village, unless approved by a vote of two-thirds of the common council of the city or trustees of the village. Any railroad corporation whose road as located terminates at any railroad previously constructed or located, whereby communication might be had with any incorporated city of the state, may amend its certificate of incorporation so as to terminate its road at the point of its intersection with any railroad subsequently located to intersect it, and thereby, by itself or its connections, afford communication with such city, with the consent of the stockholders owning two-thirds of the stock of the corporation. Any railroad corporation may, by a vote of its directors, change the grade of any part of its road, except in the city of Buffalo, in such manner as it may deem necessary to avoid accidents and to facilitate the use of such road; and it may by such vote alter the grade of its road, for such distance and in such manner as it may deem necessary, on each or either side of the place where the grade of its road has been changed by direction of the superintendent of public works, at any point where its road crosses any canal or canal feeder, except in the city of Buffalo. The superintendent of public works shall have a general and supervisory power over that part of any railroad which passes over, or approaches within ten rods of any canal or feeder belonging to the state so far as may be necessary to preserve the free and perfect use of such canals or feeders, or to make any repairs, improvements or alterations, in the same. Any railroad corporation whose tracks cross any of the canals of the state, and the grade of which may be raised by direction of the superintendent of public works, with the assent of such superintendent, may lay out a new line of road to cross such canal at a more favorable grade, and may extend such new line and connect the same with any other line of road owned by such corporation, upon making and filing in the clerk's office of the proper county a survey map and certificate of such new or altered line. No portion of the track of any railroad, as described in its certificate of incorporation, shall be abandoned under this section. [*Thus amended by L. 1892, chap. 676.*]

§ 14. Construction of part of line in another state. — Any railroad corporation, whose proposed railroad is to be built between any two points in this state, may, by a vote of two-thirds of all its directors, locate and construct a part of its road in an adjoining state; and the sections of its road within this state shall be deemed a connected line, according to the certificate of incorporation, and



the directors may reduce the capital stock of the corporation to such amount as may be deemed proper, but not less than ten thousand dollars per mile for the number of miles of road to be actually constructed in this state.

§ 15. **Two roads having the same location.**—If two railroad corporations for a portion of their respective lines embrace the same location of line, or if their lines connect, or are tributary to each other, such corporations may by agreement provide for the construction by one of them of so much of such line as is common to both, or connects with its own line, and for the manner and terms upon which the business thereon shall be performed, and the corporation that is not to construct the part of the line which is common to both, may amend its certificate of incorporation, and terminate its line at the point of intersection, and may reduce its capital to a sum not less than ten thousand dollars for each mile of road proposed to be constructed in such amended certificate.

§ 16. **Tunnel railroads.**—When, according to the route and plan for the building of its road, adopted by any railroad corporation, including corporations organized under chapter one hundred and forty of the laws of eighteen hundred and fifty, and the acts amendatory thereof, and supplementary thereto, it shall be necessary or proper to build it or any part of it underground, or to tunnel or bridge any river or waters, such corporation may enter upon, acquire title to and use such lands under water and uplands, except on or along any canals of the state, as shall be necessary for the purposes herein mentioned, and may construct, erect and secure the necessary foundations and other structures which may be required for operating and maintaining such road, or connecting the same with another, and to acquire, in the manner provided by law, such lands or rights or easements in lands along its route, upon, over or beneath the surface thereof as may be necessary for the construction of its road and making such connections. Where such road runs underneath the ground, at such depth as to enable the corporation to tunnel the same, such tunnel shall be so built and at all times kept in such condition as to make the surface of the ground above the same and in the neighborhood thereof firm and safe for buildings and other erections thereon, and if surface excavations are made the surface shall be restored to its former condition as soon as can be done, except so far as may be actually required for ventilation of the tunnel beneath the same or access thereto. Such road or any part of it may be built within the limits of any city or incorporated village of this state, and

run by means of a tunnel underneath any of the streets, roads or public places thereof, provided, such corporation shall before constructing the same underneath any such street, road or public place, have obtained the consent of the owners of one-half in value of the property bounded on the line of such street, road or public place, and the consent of the board of trustees of the village, by a resolution adopted at a regular meeting and entered on the records of the board, or of the proper authorities of the city having control of such streets, roads or public places. If the consent of such property owners can not be obtained, the general term of the supreme court in the district in which said city or village or any part thereof is situated, may upon application appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be built underneath such streets, roads or public places, or any of them, and in what manner the same may be so built with the least damage to the surface and to the use of the surface by the public and the determination of the commissioners confirmed by the court may be taken in lieu of the consent of the property owners. All railroad corporations constructing their road under this section shall be subject to all the provisions of this chapter applicable thereto. Any other railroad corporation may connect its road therewith, at such points or places as it may elect, and where such connections shall be made by connecting roads, the railroad corporations owning such roads shall build, at their joint expense, and for their joint use, such passenger and freight depots, and other accommodations for handling passengers and freight, as may be required for the convenience of the public. All railroad corporations, constructing any tunnel under this section shall be liable to any person or corporation for all damages which may be sustained by reason of the construction of such tunnel. Whenever it shall be necessary in constructing any railroad authorized by this section through any city or incorporated village, to alter the position or course of any sewer, or water or gas-pipes, it shall be done at the expense of the railroad corporation under the direction of the department or corporation having charge thereof, so as not to interfere with such work. In all cases the use of streets, docks and lands beneath which such railroad is constructed, and on the route thereof and the right of way beneath the same, for the purpose of such railroad, shall be considered, and is hereby declared, a public use, consistent with and one of the uses for which streets and docks are publicly held. No public park or square in any city or village of this state shall be used or occupied by any corporation

for any of the purposes of this section, and every road constructed hereunder in or through any such street or public place shall be wholly underground and constructed in a tunnel and not otherwise, but nothing in this section shall apply to the county of Kings nor shall operate to revive any charter or franchise heretofore granted by or in the city of Brooklyn. [*Thus amended by L. 1892, chaps. 676 and 702.*]

§ 17. **Railroads in foreign countries.**—A railroad corporation may be formed under this chapter for the purpose of constructing, maintaining and operating in any foreign country a railroad for public use in the transportation of persons and property, or for the purpose of maintaining and operating therein any railroad already constructed, in whole or in part, for the like public use, and of constructing, maintaining and operating in connection therewith, telegraph lines and lines of steamboats or sailing vessels. Any corporation formed for the construction and operation of a railroad by stationary power, may construct, operate and maintain a railroad in any other state or country, if not in conflict with the laws thereof, but the assent of the inventors or patentees of the method of propulsion used must be first obtained in the same manner and to the same extent as would be necessary within the United States. [*Thus amended by L. 1892, chap. 676.*]

§ 18. **Additional corporate powers of such road.**—The corporation specified in the preceding section shall have the following additional powers:

1. To expend money in making preliminary examinations and surveys for its proposed railroad, telegraph lines, and lines of steamboats and sailing vessels, and in acquiring from foreign countries, nations or governments, the grants, concessions and privileges herein authorized.

2. To take and receive from foreign countries, nations and governments, such grants, concessions or privileges, for the construction, acquisition, maintenance and operation of railroads, telegraph lines and vessels, as may be consistent with the purposes of the corporation, and as may be granted and conceded to it, and to hold the same, under such restrictions and with such duties and liabilities as may be fixed by the laws of such foreign country, nation or government, or as may be annexed to such grants or concessions.

3. To construct, acquire, maintain and operate the lines of railroad, telegraph and shipping provided for by its certificate of incorporation, and to take and hold by purchase or by voluntary grant such real estate and other property in foreign countries as may be neces-

sary and convenient for the construction, maintenance and accommodation of such lines, and to sell, convey, mortgage or lease such real estate or other property; and to acquire by purchase or otherwise any railroad or lines of telegraph constructed or in process of construction in any foreign country, and any grants, concessions, franchises, rights, privileges and immunities relating thereto, and to mortgage or sell and convey the same, or any part of its property to any person or corporation created by this or any other state or foreign government, subject to the laws of the country or countries where such property may be, and the power of sale hereby granted shall be exercised only by a majority of the entire board of directors of the corporation, with the written concurrence of the holders of two-thirds in amount of its capital stock.

4. To take and convey persons and property on its transportation lines by the power or force of steam or of animals, or by mechanical or other power, and receive compensation therefor subject to the laws of the place or country where the same are situated.

5. To acquire and use such real estate and other property in this state as may be necessary in the conduct of its business, but the value of such real estate held at any one time shall not exceed the sum of one million dollars.

§ 19. **Location of principal office of such road.**—Every such corporation shall maintain its principal office within this state and shall have during business hours, an officer or agent upon whom service of process may be made, and shall hold in this state at least one meeting of the stockholders in each year for the choice of directors, which shall be known as the annual meeting and be held at the time and place fixed by the by-laws of the corporation. [*Thus amended by L. 1892, chap. 676.*]

§ 20. **Individual, joint stock association, or other corporation may lay down and maintain railroad tracks in certain cases.**—Any individual, joint stock association or corporation, engaged in any lawful business in this state, may, except in any city of the state, lay down and maintain such railroad tracks on or across any street or highway, not exceeding three miles in length, as shall be necessary for the transaction of its business, and to connect any place of business owned by them with the track of any railroad corporation, and render such place of business more accessible to the public, upon obtaining the written consent of the owners of all the lands bounded on and of the local authorities having control of that portion of the street or highway, upon which it is proposed to construct or operate

for any of the purposes of this section, and every road constructed hereunder in or through any such street or public place shall be wholly underground and constructed in a tunnel and not otherwise, but nothing in this section shall apply to the county of Kings nor shall operate to revive any charter or franchise heretofore granted by or in the city of Brooklyn. [*Thus amended by L. 1892, chaps. 676 and 702.*]

§ 17. **Railroads in foreign countries.**—A railroad corporation may be formed under this chapter for the purpose of constructing, maintaining and operating in any foreign country a railroad for public use in the transportation of persons and property, or for the purpose of maintaining and operating therein any railroad already constructed, in whole or in part, for the like public use, and of constructing, maintaining and operating in connection therewith, telegraph lines and lines of steamboats or sailing vessels. Any corporation formed for the construction and operation of a railroad by stationary power, may construct, operate and maintain a railroad in any other state or country, if not in conflict with the laws thereof, but the assent of the inventors or patentees of the method of propulsion used must be first obtained in the same manner and to the same extent as would be necessary within the United States. [*Thus amended by L. 1892, chap. 676.*]

§ 18. **Additional corporate powers of such road.**—The corporation specified in the preceding section shall have the following additional powers:

1. To expend money in making preliminary examinations and surveys for its proposed railroad, telegraph lines, and lines of steamboats and sailing vessels, and in acquiring from foreign countries, nations or governments, the grants, concessions and privileges herein authorized.

2. To take and receive from foreign countries, nations and governments, such grants, concessions or privileges, for the construction, acquisition, maintenance and operation of railroads, telegraph lines and vessels, as may be consistent with the purposes of the corporation, and as may be granted and conceded to it, and to hold the same, under such restrictions and with such duties and liabilities as may be fixed by the laws of such foreign country, nation or government, or as may be annexed to such grants or concessions.

3. To construct, acquire, maintain and operate the lines of railroad, telegraph and shipping provided for by its certificate of incorporation, and to take and hold by purchase or by voluntary grant such real estate and other property in foreign countries as may be neces-

sary and convenient for the construction, maintenance and accommodation of such lines, and to sell, convey, mortgage or lease such real estate or other property; and to acquire by purchase or otherwise any railroad or lines of telegraph constructed or in process of construction in any foreign country, and any grants, concessions, franchises, rights, privileges and immunities relating thereto, and to mortgage or sell and convey the same, or any part of its property to any person or corporation created by this or any other state or foreign government, subject to the laws of the country or countries where such property may be, and the power of sale hereby granted shall be exercised only by a majority of the entire board of directors of the corporation, with the written concurrence of the holders of two-thirds in amount of its capital stock.

4. To take and convey persons and property on its transportation lines by the power or force of steam or of animals, or by mechanical or other power, and receive compensation therefor subject to the laws of the place or country where the same are situated.

5. To acquire and use such real estate and other property in this state as may be necessary in the conduct of its business, but the value of such real estate held at any one time shall not exceed the sum of one million dollars.

§ 19. **Location of principal office of such road.**—Every such corporation shall maintain its principal office within this state and shall have during business hours, an officer or agent upon whom service of process may be made, and shall hold in this state at least one meeting of the stockholders in each year for the choice of directors, which shall be known as the annual meeting and be held at the time and place fixed by the by-laws of the corporation. [*Thus amended by L. 1892, chap. 676.*]

§ 20. **Individual, joint stock association, or other corporation may lay down and maintain railroad tracks in certain cases.**—Any individual, joint stock association or corporation, engaged in any lawful business in this state, may, except in any city of the state, lay down and maintain such railroad tracks on or across any street or highway, not exceeding three miles in length, as shall be necessary for the transaction of its business, and to connect any place of business owned by them with the track of any railroad corporation, and render such place of business more accessible to the public, upon obtaining the written consent of the owners of all the lands bounded on and of the local authorities having control of that portion of the street or highway, upon which it is proposed to construct or operate



such railroad. If the consent of such property owners cannot be obtained, the general term of the supreme court of the department in which such railroad is to be constructed, may upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and the amount of damages, if any, to be paid to such property owners, and their determination confirmed by the court may be taken in lieu of the consent of the property owners. But no such railroad shall be so located, graded, built or operated as to interfere with or obstruct the traveled part of any highway, or its use as a highway, or the use of any street or highway intersecting the same.

§ 21. When electric light and power corporation may become a railroad corporation.—When all the stockholders of any domestic electric light and power company incorporated under a general law, having not less than five stockholders and actually carrying on business in this state, shall execute and file in the offices in which its original certificates of incorporation are filed an amended certificate of incorporation complying in every other respect than as to the number of signers and directors, who shall be not less than five, with the provisions of the railroad law, and in which certificate the corporate name of such corporation shall be amended by adding before the word “company” in its corporate name the words “and railroad,” such corporation shall have the right to build, maintain and operate by electricity as a motive power a railroad not exceeding twenty miles in length, and not a street surface railroad, and such corporation shall otherwise be subject to all the provisions of this chapter and have all the powers, rights and privileges conferred by it upon railroad corporations.

This section shall not apply to any railroad now located in whole or in part or hereafter to be so located in any city of the state. [*This section added by L. 1892, chap. 676.*]

\*§ 21. Any corporation, whose railroad is or shall be not longer than sixteen miles and is or shall be in large part intended for or used in summer travel or the convenience of summer sojourners need not operate its road beyond the months of June, July, August and September, inclusive. The motive power may be electricity. If the road be not longer than ten miles, such corporation may fix and collect fare for transporting each passenger, together with ordinary baggage, if any, not to exceed fifteen cents for each mile and fraction thereof. [*This section added by L. 1892, chap. 700.*]

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\* So in the original.

## ARTICLE II.

## CONSTRUCTION, OPERATION AND MANAGEMENT.

## SECTION 80. Liability of corporation to employes of contractor.

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82. Fences, farm-crossings and cattle-guards.
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[Thus amended by L. 1892, chap. 676.]

SECTION 30. Liability of corporation to employes of contractor.—An action may be maintained against any railroad corporation by any laborer for the amount due him from any contractor for the construction of any part of its road, for ninety or any less number of days' labor performed by him in constructing

such road, if within twenty days thereafter a written notice shall have been served upon the corporation, and the action shall have been commenced after the expiration of ten days and within six months after the service of such notice, which shall contain a statement of the month and particular days upon which the labor was performed and for which it was unpaid, the price per day, the amount due, the name of the contractor from whom due, and the section upon which performed, and shall be signed by the laborer or his attorney and verified by him to the effect that of his own knowledge the statements contained in it are true. The notice shall be served by delivering the same to an engineer, agent or superintendent having charge of the section of the road, upon which the labor was performed, personally, or by leaving it at his office or usual place of business with some person of suitable age or discretion; and if the corporation has no such agent, engineer or superintendent, or in case he cannot be found and has no place of business open, service may in like manner be made on any officer or director of the corporation.

§ 31. **Weight of rail.**—The rail used in the construction or the relaying of the track of every railroad hereafter built or relaid in whole or in part shall be of iron or steel, weighing not less than twenty-five pounds to the lineal yard on narrow gauge roads, and on all other roads not less than fifty-six pounds to the lineal yard on grades of one hundred and ten feet to the mile or under, and not less than seventy pounds to the lineal yard on grades of over one hundred and ten feet to the mile, except for turnouts, sidings and switches.

§ 32. **Fences, farm-crossings and cattle-guards.**—Every railroad corporation, and any lessee or other person in possession of its road, shall, before the lines of its road are opened for use, and so soon as it has acquired the right of way for its roadway erect and thereafter maintain fences on the sides of its road of height and strength sufficient to prevent cattle, horses, sheep and hogs from going upon its road from the adjacent lands with farm crossings and openings with gates therein at such farm crossings whenever and wherever reasonably necessary for the use of the owners and occupants of the adjoining lands, and shall construct where not already done, and hereafter maintain, cattle-guards at all road crossings, suitable and sufficient to prevent cattle, horses, sheep and hogs from going upon its railroad. So long as such fences are not made, or are not in good repair, the corporation, its lessee or other person in posses-

sion of its road, shall be liable for all damages done by their agents or engines or cars to any domestic animals thereon.

When made and in good repair, they shall not be liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence within the provisions of this section, but barbed wire shall not be used in its construction.

No railroad need be fenced, when not necessary to prevent horses, cattle, sheep and hogs from going upon its track from the adjoining lands. Every adjoining land owner, who, or whose grantor, has received compensation for fencing the line of land taken for a railroad, and has agreed to build and maintain a lawful fence along such line, shall build and maintain such fence. If such owner, his heir or assign shall not build such fence, or if built, shall neglect to maintain the same during the period of thirty days after he has been notified so to do by the railroad corporation, such corporation shall thereafter build and maintain such fence, and may recover of the person neglecting to build and maintain it the expense thereof. And when such railroad shall cross timbered or forest lands, the company shall construct and maintain suitable and sufficient crossings, whenever and wherever reasonably necessary to enable the respective owners of said lands, to transport logs, timber and lumber for manufacture or sale, or for banking on any stream, to be floated or driven down the same. In case of any neglect or dispute the supreme court may by mandamus or other appropriate proceedings, compel the same, and also fix the point or location of any such crossing. [*Thus amended by L. 1891, chap. 367, and by L. 1892, chap. 676.*]

§ 33. Sign boards and flagmen at crossings.—Every railroad corporation shall cause boards to be placed, well supported and constantly maintained across each traveled public road or street, where the same is crossed by its road at grade. They shall be elevated so as not to obstruct travel, and to be easily seen by travelers; and on each side shall be painted in capital letters, each at least nine inches in length and of suitable width, the words: "Railroad crossing; look out for the cars;" but such boards need not be put up in cities and villages, unless required by the officers having charge of the streets. At any point where a railroad crosses a street, highway, turnpike, plankroad, or traveled way at grade, or where a steam railroad crosses a horse railroad at grade, and the corporation owning or operating such railroad, refuses, upon request of the local author-

ities to station a flagman or erect gates, to be opened and closed when an engine or train passes, the supreme court or the county court, may, upon the application of the local authorities and upon ten days notice to the corporation, order that a flagman be stationed at such point, or that gates shall be erected thereat, and that a person be stationed to open and close them when an engine or train passes, or may make such other order respecting the same as it deems proper. Whenever the crossings by a railroad at grade of the streets, highways, turnpikes, plankroads, or traveled ways of any village or city, having a population by the last state or federal enumeration of less than fifty thousand, shall be protected by gates with persons to open and close the same, when an engine or train passes, the local authorities of the city or village shall not impose any limitation, less than forty miles an hour, on the rate of speed at which such engine or train shall be run, or enforce any existing limitation upon such rate of speed, less than forty miles an hour [*Thus amended by L. 1892, chap. 676.*]

§ 34. Notice of starting trains ; no preferences.—Every railroad corporation shall start and run its cars for the transportation of passengers and property at regular times, to be fixed by public notice, and shall furnish sufficient accommodations for the transportation of all passengers and property which shall be offered for transportation at the place of starting, within a reasonable time previously thereto, and at the junctions of other railroads, and at the usual stopping places established for receiving and discharging way passengers and freight for that train ; and shall take, transport and discharge such passengers and property at, from and to, such places, on the due payment of the fare or freight legally authorized therefor. No station established by any railroad corporation for the reception or delivery of passengers or property, or both, shall be discontinued without the consent of the board of railroad commissioners first had and obtained. No preference for the transaction of the business of a common carrier upon its cars, or in its depots or buildings, or upon its grounds, shall be granted by any railroad corporation to any one of two or more persons, associations or corporations competing in the same business, or in the business of transporting property for themselves or others. Any such station in an incorporated village shall have the same name as the village ; if any road shall have more than one such station in any such village the station nearest the geographical centre thereof shall have such name. [*Thus amended by L. 1892, chap. 676.*]

§ 35. **Accommodation of connecting roads.**—Every railroad corporation whose road, at or near the same place, connects with or is intersected by two or more railroads competing for its business, shall fairly and impartially afford to each of such connecting or intersecting roads equal terms of accommodation, privileges and facilities in the transportation of cars, passengers, baggage and freight over and upon its roads, and over and upon their roads, and equal facilities in the interchange and use of passenger, baggage, freight and other cars required to accommodate the business of each road, and in furnishing passage tickets to passengers who may desire to make a continuous trip over any part of its roads and either of such connecting roads. The board of railroad commissioners may, upon application of the corporation owning or operating either of the connecting or intersecting roads, and upon fourteen days' notice to the corporation owning or operating the other road, prescribe such regulations as will secure, in their judgment, the enjoyment of equal privileges, accommodations and facilities to such connecting or intersecting roads as may be required to accommodate the business of each road, and the terms and conditions upon which the same shall be afforded to each road. The decision of the commissioners shall be binding on the parties for two years, and the supreme court shall have power to compel the performance thereof by attachment, mandamus or otherwise.

§ 36. **Locomotives must stop at grade crossings.**—All trains and locomotives on railroads crossing each other at grade shall come to a full stop before crossing, not less than two hundred or more than eight hundred feet from the crossing, and shall then cross only when the way is clear and upon a signal from a watchman stationed at the crossing. If the corporations can not agree as to the expense of the watchman, it shall be determined by the supreme court, upon motion thereto by either of them. If the corporations disagree as to the precedence of trains, the board of railroad commissioners may, after hearing, upon the application of either corporation, prescribe rules in relation thereto. The full stop and crossing on signal may be discontinued if the board of railroad commissioners shall decide it to be impracticable, or if, with the approval of the commissioners, an interlocking switch and signal apparatus is adopted and put in operation at such a crossing. The full stop and crossing on signal shall not be required in depot yards, or the approaches thereto, if the crossing roads are under lease or subject to the same management or control in the use of tracks. An engineer, violating the



foregoing provisions of this section, or any such rule of the railroad commissioners shall be liable to a penalty of one hundred dollars; and any corporation or person operating the railroad, violating any of such provisions or rules shall be liable to a penalty of five hundred dollars. No railroad corporation, or any officer, agent or employe thereof, shall stop its cars, horses, or locomotives upon a grade crossing of a railroad of another corporation, for the purpose of receiving or delivering passengers or freight, or other purpose, and any person or corporation violating this provision, shall be liable to a penalty of two hundred and fifty dollars.

§ 37. Rates of fare.—Every railway corporation may fix and collect the following rates of fare as compensation to be paid for transporting any passenger and his baggage, not exceeding one hundred and fifty pounds in weight, for each mile or fraction of a mile.

1. Where the motive power is rope or cable, propelled by stationary power, five cents, with right to a minimum fare of ten cents; but if the railroad is less than two miles in length, and overcomes an elevation of five hundred feet or more to the mile, five cents for each one hundred feet of elevation so overcome, and the same rates of fare if the motive power is locomotives, furnished with cogs working into cogs on the railway, and the length of road does not exceed four miles.

2. If a road, not incorporated prior to May 15, 1879, and not located in the counties of New York and Kings, or within the limits of any incorporated city, and not more than twenty-five miles in length, five cents; if over twenty-five and not more than forty miles, four cents; and if over forty miles, three cents. Where by the laying down of a third rail upon a railroad of the ordinary gauge, a narrow-gauge track is created and used for the transportation of passengers, and the length of road does not exceed six miles, including any connecting road of the same gauge, such railroad, for the purpose of fare, shall be deemed a narrow gauge road.

3. If its railroad overcomes an elevation of two hundred feet to the mile, for at least two consecutive miles, and does not exceed twenty miles in length, ten cents; if it overcomes an elevation exceeding three hundred feet to the mile, within a distance of two miles, five cents for each one hundred feet of elevation; and where it overcomes an elevation of more than one thousand feet, within a distance of two miles, seven cents for each one hundred feet of elevation in a mile.

4. If the line of its road does not exceed fifteen miles in length,

and does not enter or traverse the limits of any incorporated city, and the distance traveled thereon by the passenger does not exceed one mile, five cents.

5. In all other cases, three cents for every such mile or fraction thereof, with a right to a minimum single fare of not less than five cents.

This chapter shall not be construed to allow any rate of fare for way passengers greater than two cents per mile to be charged or taken over the track or tracks of the railroad known as the New York Central Railroad Company, and the rate of fare for way passengers over the track or tracks of such company shall continue to be two cents per mile and no more, wherever it is restricted to that rate of fare, nor shall any consolidated railroad corporation charge a higher rate of fare per passenger per mile, upon any part or portion of the consolidated line than was allowed by law to be charged by each existing corporation thereon previously to such consolidation. [*Thus amended by L. 1892, chap. 676.*]

§ 38. **Legislature may alter or reduce fare.**—The legislature may, when any such railroad shall be opened for use, from time to time, alter or reduce the rate of freight, fare or other profits upon such road; but the same shall not, without the consent of the corporation, be so reduced as to produce with such profits less than ten per centum per annum on the capital actually expended; nor unless on an examination of the amounts received and expended, to be made by the board of railroad commissioners, they shall ascertain that the net income derived by the corporation from all sources, for the year then last past, shall have exceeded an annual income of ten per cent upon the capital of the corporation actually expended.

§ 39. **Penalty for excessive fare.**—Any railroad corporation, which shall ask or receive more than the lawful rate of fare, unless such overcharge was made through inadvertence or mistake, not amounting to gross negligence, shall forfeit fifty dollars, to be recovered with the excess so received by the party paying the same; but no action can be maintained therefor, unless commenced within one year after the cause of action accrued.

§ 40. **Passenger refusing to pay fare may be ejected.**—If any passenger shall refuse to pay his fare the conductor of the train, and the servants of the corporation, may put him and his baggage out of the cars, using no unnecessary force, on stopping the train, at any usual stopping place, or near any dwelling house, as the conductor may elect.

§ 41. **Sleeping and parlor cars.**—Any railroad corporation may contract with any person, association or corporation for the hauling by the special or regular trains of said railroad corporation, the parlor, drawing-room or sleeping car or cars of such person, association or corporation, in which extra accommodations shall be furnished, for which said person, association or corporation furnishing such parlor, drawing-room or sleeping car or cars, may charge for the carriage and transportation of persons and property therein, a reasonable compensation for such extra accommodation, in addition to the fare and charges now allowed by law for the carriage and transportation of passengers and property in the ordinary cars of said railroad corporation. But said railroad corporation so contracting shall be liable in the same way and to the same extent as if the said car or cars were owned by it, and shall furnish sufficient ordinary cars for the reasonable accommodation of the traveling public. [*Thus amended by L. 1892, chap. 676.*]

§ 42. **Persons employed as drivers and conductors.**—Any railroad corporation may employ any inhabitant of the state, of the age of twenty-one years, not addicted to the use of intoxicating liquors, as a car driver or conductor, or in any other capacity, if fit and competent therefor.

§ 43. **Conductors and employes must wear badges.**—Every conductor and employe of a railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office or employment, and the initial letters of the corporation employing him. No conductor or collector without such badge shall demand or receive from any passenger any fare or ticket or exercise any of the powers of his employment. No officer or employe without such badge shall meddle or interfere with any passenger, his baggage or property. [*Thus amended by L. 1892, chap. 676.*]

§ 44. **Checks for baggage.**—A check, made of some proper metallic substance of convenient size and form, plainly stamped with numbers, and furnished with a convenient strap or other appendage for attaching to baggage, shall be affixed to every piece or parcel of baggage when taken for transportation for a passenger by the agent or employe of such corporation, if there is a handle, loop or fixture therefor upon the piece or parcel of baggage, and a duplicate thereof given to the passenger or person delivering the same to him. If such check be refused on demand the corporation shall pay to the passenger the sum of ten dollars, and no fare shall be

collected or received from him ; and if he shall have paid his fare it shall be refunded to him by the conductor in charge of the train. Such baggage shall be delivered, without unnecessary delay, to the passenger or any person acting in his behalf at the place to which it was to be transported, where the cars usually stop, or at any other regular intermediate stopping place, upon notice to the baggage-master in charge of baggage on the train, of not less than thirty minutes, upon presentation of such duplicate check to the officer or agent of the railroad corporation, or of any corporation, over any portion of whose road it was transported. [*Thus amended by L. 1892, chap. 676.*]

§ 45. Penalties for injuries to baggage.—Any person, whose duty it is for or on behalf of the common carrier to handle, remove, or care for the baggage of passengers, who shall recklessly or willfully injure or destroy any trunk, valise, box, bag, package or parcel, while loading, unloading, transporting, delivering or storing the same, or any railroad corporation, which shall knowingly keep in its employment any such willful or reckless person, or which shall permit any injury or destruction of such property, through failure to provide sufficient help and facilities for the handling thereof, shall pay to the party injured thereby the sum of fifty dollars, in addition to such damages.

§ 46. Unclaimed freight and baggage.—Every railroad or other transportation corporation, doing business in this state, which shall have unclaimed freight or baggage, not perishable, in its possession for the period of one year, may sell the same at public auction, after giving notice to that effect, once a week for not less than four weeks in a newspaper published in the county where the freight or baggage remains unclaimed, and in a newspaper published in the county where the sale is to be had, and a newspaper published in the city of New York, which notice shall contain, as near as practicable, a description of such freight or baggage, the place and time when left, and the name of the owner, if known. A copy of such notice shall be posted in a conspicuous place at each depot or station, where any portion of such freight or baggage remains unclaimed, at least four weeks before such sale, and a copy thereof shall be served on the comptroller of the state, at least two weeks before such sale. If the name and residence of the owner of any such property is known to, or can be ascertained by, the corporation, it shall forthwith serve a copy of such notice upon such owner by mail. Perishable freight or baggage may be sold without notice, as

soon as it can be, upon the best terms that can be obtained. All moneys arising from the sale of such freight or baggage, after deducting therefrom charges and expenses for transportation, storage, advertising, commissions for selling the property, and any amount previously paid for its loss or non-delivery, shall be deposited, by the corporation making such sale, with a report thereof, and proofs of advertisement, if any, and if none, proofs that the property was perishable, with the comptroller for the benefit of the general fund of the state, and shall be held by him in trust for reclamation by the persons entitled to receive the same. [*Thus amended by L. 1892, chap. 676.*]

§ 47. **Tickets and checks for connecting steamboats.**—The proprietors of any line of steamboats, terminating or stopping for passengers at any place where a railroad corporation has a depot or station, may furnish tickets and baggage checks to such corporation for the use of passengers, traveling over its road, who desire to connect with such line of boats at any such place, and the railroad corporation shall sell such tickets and deliver a duplicate of one of such checks to any such passenger applying therefor, and shall account for and pay over to the proprietor of such line of boats all moneys received by it for the sale of such tickets; and any such railroad corporation may furnish tickets and checks for baggage to the proprietors of any such line of steamboats for the use of passengers traveling over any part of such line of boats, who desire to connect with the railroad of any such corporation at any such place, and such proprietors shall sell such tickets and deliver a duplicate of one of such checks to any such passenger applying therefor, and shall account for and pay over to such corporation all moneys received by them for the sale of such tickets. No greater rate of fare shall be charged by any railroad corporation to any such passenger for the distance traveled over its road than is charged to travelers for the same distance whose trip ends at the place where connection is made with any such line of boats, and no greater rate of fare shall be charged by the proprietors of any such steamboat line to any such passenger for the distance traveled over its line, than is charged to travelers for the same distance whose trip ends at the place where connection is made with any such railroad. Any additional cost of transfer of a passenger or his baggage from railroad depot or station to steamboat landing, or from steamboat landing to depot or station, shall be borne by the passenger or the proprietors of the steamboat line or the railroad corporation at whose instance or for whose bene-

fit such transfer is made. Every railroad corporation and the proprietors of any line of steamboats, their agents or servants, who shall neglect or refuse to sell tickets or furnish a check to any passenger applying for the same, when the same shall have been furnished to them, shall pay to such passenger the sum of ten dollars, and no fare or toll shall be collected from him for riding over such road or upon such boats, as the case may be; and in addition thereto any railroad corporation so neglecting or refusing, shall pay the proprietors of such line of boats two hundred and fifty dollars for each day it shall so neglect or refuse; and the proprietors of any such line of boats so neglecting or refusing, shall pay to such railroad corporation a like sum for each day they shall so neglect or refuse.

Every such railroad corporation shall also receive any freight which shall be delivered at any station on the line of its road, marked to go by way of boat or any particular line of boats from any station on its road at which such boat or line of boats terminates or stops for freight, and shall transport such freight with all convenient speed to such station, and on its arrival there cause the proprietors of the steamboat line by which it is directed to be sent, or their agent, to be notified of such arrival, and shall deliver such freight to such proprietors or their agent with the bill of charges thereon due such railroad corporation, for the payment of which charges the proprietor or proprietors of such steamboat line shall be responsible, and shall account for and pay the same to such railroad corporation on demand. The railroad corporation shall not charge for the transportation of such freight over its road any greater sum pro rata than it charges for carrying the same kind of freight the same distance over its road, if it was to be transported by such corporation by rail to its final destination, or to the terminus of the road of such corporation in case it terminates before such final destination is reached. Any freight delivered by the proprietors of any steamboat or steamboat line, or their authorized agent, at any station, at a place where such steamboat or steamboats have a landing, to any such railroad corporation, for transportation over its road or any part thereof, shall be transported by such corporation to its place of destination for the same price pro rata which would be charged for the same kind of freight the same distance over its road, if the same had been taken on at the point of first shipment by boat, or at the terminus of the road of such corporation, in case it does not extend to the point of first shipment.

§ 48. Rights and liabilities as common carriers.— Every



railroad corporation doing business in this state shall be a common carrier. Any one of two or more corporations owning or operating connecting roads, within this state, or partly within and partly without the state, shall be liable as a common carrier, for the transportation of passengers or delivery of freight received by it to be transported by it to any place on the line of a connecting road; and if it shall become liable to pay any sum by reason of neglect or misconduct of any other corporation it may collect the same of the corporation by reason of whose neglect or misconduct it became liable. [*Thus amended by L. 1892, chap. 676.*]

§ 49. Switches; warning signals; guard-posts; automatic couplers; automatic or other safety brake; tools in passenger car; water.—It shall be the duty of every railroad corporation operating its road by steam:

1. To lay, in the construction of new and in the renewal of existing switches, upon freight or passenger main line tracks, switches on the principle of either the so-called Tyler, Wharton, Lorenze, or split-point switch, or some other kind of safety switch, which shall prevent the derailment of a train, when such switch is misplaced, or a switch interlocked with distant signals.

2. To erect and thereafter maintain such suitable warning signals at every road, bridge, or structure which crosses the railroad above the tracks, where such warning signals may be necessary, for the protection of employes on top of cars from injury.

3. To place guard-posts in the prolongation of the line of bridge trusses so that in case of derailment, the posts, and not the bridge trusses, shall receive the blow of the derailed locomotive or car.

4. To use upon every new freight car, built or purchased for use, couplers which can be coupled and uncoupled automatically, without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars.

5. To attach to every car used for passenger transportation an automatic air-brake or other form of safety-power brake, applied from the locomotive, excepting cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour.

6. To provide each closed car, in use in every passenger train owned or regularly used upon a railroad, with one set of tools, consisting of an axe, sledge-hammer, crow-bar, and handsaw, to be properly placed so as to be easily removed.

7. To provide in each passenger car, where the line of road shall

exceed forty continuous miles in length, a suitable receptacle for water, with a cup or drinking utensil attached upon or near such receptacle, and to keep such receptacle, while the car is in use, constantly supplied with cool water.

Every corporation, person or persons, operating such railroad, and violating any of the provisions of this section, except subdivision seven, shall be liable to a penalty of one hundred dollars for each offense, and the further penalty of ten dollars for each day that it shall omit or neglect to comply with any of such provisions. For every violation of the provisions of the seventh subdivision of this section every such corporation shall be liable to a penalty of twenty-five dollars for each offense.

§ 50. **Railroad commissioners may approve other safeguards.**—The board of railroad commissioners may, on the application of any railroad corporation, authorize it to use any other safeguard or device approved by the board, in place of any safeguard or device required by this article, which shall thereafter be used in lieu thereof, and the same penalties for neglect or refusal to use the same shall be incurred and imposed as for a failure to use the safeguard or device hereinbefore required, in lieu of which the same is to be used.

§ 51. **Use of stoves or furnaces prohibited.**—It shall not be lawful for any railroad corporation, operating a steam railroad in this state, of the length of fifty miles or more, excepting foreign railroad corporations, incorporated without the jurisdiction of the United States, running cars upon tracks in this state for a distance of less than thirty miles, to heat its passenger cars, on other than mixed trains, excepting dining-room cars, by any stove or furnace kept inside the car, or suspended therefrom, unless in case of accident or other emergency, when it may temporarily use such stove or furnace with necessary fuel, and in cars which have been equipped with apparatus to heat by steam, hot water or hot air from the locomotive, or from a special car, the present stove may be retained to be used only when the car is standing still, and no stove or furnace shall be used in any dining-room car, except for cooking purposes, and of a pattern and kind to be approved by the railroad commissioners. Any person or corporation, violating any of the provisions of this section, shall be liable to a penalty of one thousand dollars, and to the further penalty of one hundred dollars for each and every day during which such violation shall continue.

§ 52. **Canada thistles to be cut.**—Every railroad corporation

doing business within this state, shall cause all Canada thistles, white and yellow daisies and other noxious weeds growing on any lands owned or occupied by it, to be cut down twice in each and every year, once between the fifteenth day of June and the twenty-fifth day of June, and once between the fifteenth day of August and the twenty-fifth day of August. If any such corporation shall neglect to cause the same to be so cut down, any person may cut the same, between the twenty-fifth day of June and the fifth day of July inclusive, and between the twenty-fifth day of August and the fifth day of September inclusive in each year, at the expense of the corporation on whose lands the same shall be so cut, at the rate of three dollars per day for the time occupied in cutting.

§ 53. **Riding on platform; walking along track.**—No railroad corporation shall be liable for any injury to any passenger while on the platform of a car, or in any baggage, wood or freight car, in violation of the printed regulations of the corporation, posted up at the time in a conspicuous place inside of the passenger cars, then in the train, if there shall be at the time sufficient room for the proper accommodation of the passenger inside such passenger cars. No person other than those connected with or employed upon the railroad shall walk upon or along its track or tracks, except where the same shall be laid across or along streets or highways, in which case he shall not walk upon the track unless necessary to cross the same. Any person riding, leading or driving any horse or other animal upon any railroad, or within the fences and guards thereof, other than at a farm or street or forest crossing, without the consent of the corporation, shall forfeit to the people of the state the sum of ten dollars, and pay all damages sustained thereby to the party aggrieved. [*Thus amended by L. 1892, chap. 676.*]

§ 54. **Corporations may establish ferries.**—Any steam railroad corporation, incorporated under the laws of this state, with a terminus in the harbor of New York, may purchase or lease boats propelled by steam or otherwise, and operate the same as a ferry or otherwise, over the waters of the harbor of New York, but this section shall not be construed to affect the rights of the cities of New York and Brooklyn. [*Thus amended by L. 1892, chap. 676.*]

§ 55. **Certain railroads may cease operation in winter.**—The directors of any railroad corporation operating a railroad, constructed and used principally for transporting lumber or ores, during the summer months, or for summer travel, may, by a resolution duly passed at a meeting thereof, apply to the board of railroad commis-

sioners for permission to cease the operation of their road during the winter season, for a period, not exceeding seven months in any one year, specifying the date of such suspension, and the date of the re-opening thereof; and such board may, in their discretion, make an order granting the application wholly or in part, and thereupon such railroad corporation shall be relieved of the duty of operating its road during the period specified in the order. A copy of such order shall be posted in all the depots and at the termini of such railroad, and published in every newspaper in each town in any part of which such road shall be constructed at least four weeks prior to the date of such suspension.

§ 56. **Mails.**—Any railroad corporation shall, when applied to by the postmaster-general, convey the mails of the United States on its road, and in case such corporation and the postmaster-general shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, the board of railroad commissioners shall fix the prices, terms and conditions therefor, after giving the corporation reasonable opportunity to be heard. Such price shall not be less for carrying such mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. If the postmaster-general shall require the mail to be carried at other hours, or at higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as herein provided.

Every railroad corporation refusing or neglecting to comply with any provision of this section shall forfeit to the people of the state one hundred dollars for every day such neglect or refusal continues. [*Thus amended by L. 1892, chap. 676.*]

§ 57. **Corporations must make annual report.**—Every person or corporation owning, leasing, operating or in possession of a railroad, wholly or partly, in this state, shall make an annual report to the board of railroad commissioners of its operations for the year ending with June thirtieth, and of its condition on that day which shall be verified by the oaths of the president, or treasurer, and the general manager, or acting superintendent, and shall be filed in the office of such board on or before September first in each year. Every such person or corporation shall make quarterly and further reports to such board in the form and within the time prescribed by

it. Such board may in its discretion change the date of the annual report and of filing the same, but the length of time between the date of the annual report and the filing of the same shall not be less than herein prescribed. Any person or railroad corporation which shall neglect to make any such report, or which shall fail to correct any such report within ten days after notice by the board of railroad commissioners, shall be liable to a penalty of two hundred and fifty dollars, and an additional penalty of twenty-five dollars for each day after September first on which it shall neglect to file the same, to be sued for in the name of the people of the state of New York, for their use.

The board of railroad commissioners may extend the time herein limited for cause shown. [*Thus amended by L. 1892, chap. 676.*]

§ 58. When conductors and brakemen may be policemen.—The governor may appoint any conductor or brakeman on any train conveying passengers on any steam railroad in this state, a policeman, with all the powers of a policeman in cities and villages, for the preservation of order and of the public peace, and the arrest of all persons committing offenses upon the land or property of the corporation owning or operating such railroad; and he may also appoint, on the application of any such corporation or of any steamboat company, such additional policemen, designated by it, as he may deem proper, at any station, who shall have the same powers, but not more than one at any one station. Every such policeman shall, within fifteen days after receiving his commission, and before entering upon the duties of his office, take and subscribe the constitutional oath of office, and file it with his commission in the office of the secretary of state, who shall thereupon transmit to the county clerk of each county in which such policeman is authorized to act a certificate, under his hand and official seal, setting forth the appointment and the filing of the commission and oath, which certificate shall be filed by the county clerk. Every such policeman shall, when on duty wear a metallic shield with the words "Railway police," or "Steamboat police," as the case may be, and the name of the corporation for which appointed inscribed thereon, which shall always be worn in plain view, except when employed as a detective. The compensation of every such policeman shall be such as may be agreed upon between him and the corporation for which he is appointed, and shall be paid by the corporation. When any corporation shall no longer require the services of any such policeman, they may file notice to that effect in the several offices in which notice of

his appointment was originally filed, and thereupon such appointment shall cease and be at an end.

**§ 59. Requisites to exercise of powers of future railroad corporations.**—No railroad corporation hereafter formed under the laws of this state shall exercise the powers conferred by law upon such corporations or begin the construction of its road until the directors shall cause a copy of the articles of association to be published in one or more newspapers in each county in which the road is proposed to be located, at least once a week for three successive weeks, and shall file satisfactory proof thereof with the board of railroad commissioners; nor until the board of railroad commissioners shall certify that the foregoing conditions have been complied with, and also that public convenience and necessity require the construction of said railroad as proposed in said articles of association. The foregoing certificate shall be applied for within six months after the completion of the three weeks' publication hereinbefore provided for. If a certificate is refused no further proceedings shall be had before said board, but the application may be renewed after one year from the date of such refusal. Prior to granting or refusing said certificate the board shall have a right to permit errors, omissions or defects to be supplied and corrected. After a refusal to grant such certificate the board shall certify a copy of all maps and papers on file in its office and of the findings of the board when so requested by the directors aforesaid. Such directors may thereupon present the same to a general term of the supreme court of the department within which said road is proposed in whole or in part to be constructed, and said general term shall have power, in its discretion, to order said board, for reasons stated, to issue said certificate, and it shall be issued accordingly. Such certificate shall be filed in the office of the secretary of state, and a copy thereof, certified to be a copy by the secretary of state, or his deputy, shall be evidence of the facts therein stated. Nothing in this section shall prevent any such railroad corporation from causing such examinations and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route; and for such purpose by its officers or agents and servants, to enter upon the lands or water of any person, but subject to the responsibility for all damages which shall be done thereto. This section shall not apply to street railroads. [*Thus amended by L. 1892, chap. 676.*]



## ARTICLE III.

## CONSOLIDATION, LEASE, SALE, AND REORGANIZATION.

**SECTION 70.** Consolidation of corporations owning continuous lines.

71. Conditions.

1. Joint agreement; amount of capital stock.

2. Agreement to be submitted to meeting of stockholders.

72. New corporation.

73. Creditors' rights not to be impaired.

74. Assessment of property of new corporation.

75. Stock of municipal corporation, how represented.

76. Foreclosure of mortgages made by consolidated railroads partly in the state.

77. Powers of corporation of other states.

78. Lease of road.

79. Lessees of railroad may acquire stock therein.

80. Consolidation and lease of parallel lines prohibited.

81. Mortgagee may purchase at foreclosure sale.

82. Certificates of stock may be issued after foreclosure in certain cases.

83. Liabilities of reorganized railroad corporations.

*[Thus amended by L. 1892, chap. 678.]*

§ 70. Consolidation of corporations owning continuous lines.—Any railroad or other corporation, organized under the laws of this state, or of this state and any other state, and owning or operating a railroad, bridge or tunnel, either wholly within or partly within and partly without the state, or whose lines or routes of road have been located but not constructed, may merge and consolidate its capital stock, franchises, and property with the capital stock, franchises and property of any other railroad, tunnel or bridge corporation or corporations organized under the laws of this state or of this state and any other state, or under the laws of any other state or states, whenever the two or more railroads of the companies or corporations so to be consolidated, tunnels, bridges or branches of any part thereof, or the line or routes of their road, if not constructed, shall or may form a continuous or connected line of railroad with each other or by means of any intervening railroad bridge, tunnel or ferry and any such consolidated corporation may thereupon construct or finish the construction of such continuous line of railroad, if not previously constructed, and operate the same, subject to all provisions of law applicable to such railroad corporations. Where the road to be operated is in whole or in part a tunnel or sub-surface road, authorized by section 16 of this chapter, its consolidation with another road or roads under the provisions of

this section shall not prevent any connecting railroad from having equal rights of transit for its passengers and freight through or over the tunnel or bridge of any such road, upon the same equitable terms, nor shall such consolidation be made where such tunnel or subsurface road exceeds five miles in length. [*Thus amended by L. 1892, chap. 676.*]

§ 71. **Conditions.**—Such consolidation shall be made in the following manner :

1. **Joint agreement ; amount of capital stock.**—The directors of the corporations proposing to consolidate may enter into a joint agreement, under the corporate seal of each corporation, for the consolidation of such corporations, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each corporation into that of the new corporation, and how and when the directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization and the consolidation of such corporations. But in no case shall the capital stock of the corporation formed by such consolidation exceed the sum of the capital stock of the corporations so consolidated, at the par value thereof. Nor shall any bonds or other evidences of debt be issued as a consideration for, or in connection with, such consolidation.

2. **Agreement to be submitted to meeting of stockholders.**—If stockholders owning two-thirds of all the stock of each of such corporations shall by a consent in writing, acknowledged as are deeds entitled to be recorded and endorsed upon said lease or agreement, signify their assent thereto, it shall be deemed and taken as the adoption of such agreement by and on behalf of such corporation, and the original or certified copy thereof shall be filed as hereinafter provided. If such agreement shall not be consented to in writing by holders of two-thirds of the stock of either of such corporations as hereinbefore provided, such agreement shall be submitted to the stockholders of each of such corporations at a meeting thereof called separately for the purpose of taking the same into consideration. Due notice of the time and place of holding such meeting, and the object thereof, shall be given by each corporation to its stockholders by written or printed notices addressed to each of the persons in whose names

the capital stock of such corporation stands on the books thereof, and delivered to such persons respectively, or sent to them by mail, when their post-office address is known to the corporation, at least thirty days before the time of holding such meeting, and also by a general notice published at least once a week for four weeks successively in some newspaper printed in the city, town or county where such corporation has its principal office or place of business. At such meeting of stockholders such agreement shall be considered, and a vote by ballot taken for the adoption or rejection of the same, and if the votes of the stockholders owning at least two-thirds of the stock of each corporation present and voting in person or by proxy shall be for the adoption of such agreement, then that fact shall be certified thereon by the secretaries of the respective corporations, under the seal thereof, and the agreement so adopted, or a certified copy thereof, shall be filed in the office of the secretary of state, and in the office of the clerk of the county where the new corporation is to have its principal place of business, and shall from thence be deemed and taken to be the agreement and act of consolidation of such corporations, and thereafter such corporations, parties thereto, shall be one corporation by the name provided in such agreement, but such act of consolidation shall not release such new corporation from any of the restrictions, liabilities or duties of the several corporations so consolidated. [*Thus amended by L. 1892, chap. 676.*]

§ 72. New corporation.—Upon the consummation of such act of consolidation all the rights, privileges, exemptions and franchises of each of the corporations, parties to the same, and all the property, real, personal and mixed, and all the debts due on whatever account to either of them, as well as all stock subscriptions and other things in action belonging to either of them shall be taken and deemed to be transferred to and vested in such new corporation, without further act or deed; and all claims, demands, property, rights of way, and every other interest shall be as effectually the property of the new corporation as they were of the former corporations, parties to such agreement and act; and the title to all real estate, taken by deed or otherwise, under the laws of this state, vested in either of such corporations, parties to such agreement and act, shall not be deemed to revert or be in any way impaired by reason of this act, or anything done by virtue thereof, but shall be vested in the new corporation by virtue of such act of consolidation. And it shall be lawful for any railroad company or corporation, now or hereafter formed by the consolidation of one or more railroad companies or

corporations organized under the laws of this state, or under the laws of this state and other states, with one or more railroad companies or corporations organized under the laws of any other state, or of the laws of this state and other states, to issue its bonds for the purpose of paying or retiring any bonds theretofore issued by either of said companies or corporations so consolidated, or for any purpose and to the amount authorized by the laws of the state under which either of said companies or corporations so consolidated was organized, and secure the same by a mortgage upon its real or personal property, franchises, rights and privileges, whether within or without this state, and subject to the remedies for the enforcement of the same under the laws of either of said states. Nothing in this act contained shall authorize the execution of any such mortgage without the consent of the stockholders as now required by the laws of this state, nor compel any bondholder to accept payment in whole or in part of any bond or bonds held by him or to surrender the same before they shall become due. [*Thus amended by L. 1891, chap. 362.*]

§ 73. Creditors' rights not to be impaired.—The rights of all creditors of, and all liens upon the property of, either of such corporations, parties to such agreement and act, shall be preserved unimpaired, and the respective corporations shall be deemed to continue in existence to preserve the same, and all debts and liabilities incurred by either of such corporations shall thenceforth attach to such new corporation, and be enforced against it and its property to the same extent as if incurred or contracted by it. No actions or proceedings in which either of such corporations is a party shall abate or be discontinued by such agreement and act of consolidation, but may be conducted to final judgment in the names of such corporations, or such new corporation may be, by order of the court, on motion substituted as a party.

§ 74. Assessment of property of new corporation.—The real estate of such new corporations, situate within this state, shall be assessed and taxed in the several towns and cities where the same shall be situated in like manner as the real estate of other railroad corporations is, or may be taxed and assessed, and such proportion of the capital stock and personal property of such new corporation shall in like manner be assessed and taxed in this state, as the number of miles of its railroad situate in this state bears to the number of miles of its railroad situate in the other state or states.

§ 75. Stock of municipal corporation, how represented.—At any meeting of the stockholders of any railroad corporation to

the capital stock of such corporation stands on the books thereof, and delivered to such persons respectively, or sent to them by mail, when their post-office address is known to the corporation, at least thirty days before the time of holding such meeting, and also by a general notice published at least once a week for four weeks successively in some newspaper printed in the city, town or county where such corporation has its principal office or place of business. At such meeting of stockholders such agreement shall be considered, and a vote by ballot taken for the adoption or rejection of the same, and if the votes of the stockholders owning at least two-thirds of the stock of each corporation present and voting in person or by proxy shall be for the adoption of such agreement, then that fact shall be certified thereon by the secretaries of the respective corporations, under the seal thereof, and the agreement so adopted, or a certified copy thereof, shall be filed in the office of the secretary of state, and in the office of the clerk of the county where the new corporation is to have its principal place of business, and shall from thence be deemed and taken to be the agreement and act of consolidation of such corporations, and thereafter such corporations, parties thereto, shall be one corporation by the name provided in such agreement, but such act of consolidation shall not release such new corporation from any of the restrictions, liabilities or duties of the several corporations so consolidated. [*Thus amended by L. 1892, chap. 676.*]

§ 72. New corporation.—Upon the consummation of such act of consolidation all the rights, privileges, exemptions and franchises of each of the corporations, parties to the same, and all the property, real, personal and mixed, and all the debts due on whatever account to either of them, as well as all stock subscriptions and other things in action belonging to either of them shall be taken and deemed to be transferred to and vested in such new corporation, without further act or deed; and all claims, demands, property, rights of way, and every other interest shall be as effectually the property of the new corporation as they were of the former corporations, parties to such agreement and act; and the title to all real estate, taken by deed or otherwise, under the laws of this state, vested in either of such corporations, parties to such agreement and act, shall not be deemed to revert or be in any way impaired by reason of this act, or anything done by virtue thereof, but shall be vested in the new corporation by virtue of such act of consolidation. And it shall be lawful for any railroad company or corporation, now or hereafter formed by the consolidation of one or more railroad companies or

corporations organized under the laws of this state, or under the laws of this state and other states, with one or more railroad companies or corporations organized under the laws of any other state, or of the laws of this state and other states, to issue its bonds for the purpose of paying or retiring any bonds theretofore issued by either of said companies or corporations so consolidated, or for any purpose and to the amount authorized by the laws of the state under which either of said companies or corporations so consolidated was organized, and secure the same by a mortgage upon its real or personal property, franchises, rights and privileges, whether within or without this state, and subject to the remedies for the enforcement of the same under the laws of either of said states. Nothing in this act contained shall authorize the execution of any such mortgage without the consent of the stockholders as now required by the laws of this state, nor compel any bondholder to accept payment in whole or in part of any bond or bonds held by him or to surrender the same before they shall become due. [*Thus amended by L. 1891, chap. 362.*]

§ 73. Creditors' rights not to be impaired.—The rights of all creditors of, and all liens upon the property of, either of such corporations, parties to such agreement and act, shall be preserved unimpaired, and the respective corporations shall be deemed to continue in existence to preserve the same, and all debts and liabilities incurred by either of such corporations shall thenceforth attach to such new corporation, and be enforced against it and its property to the same extent as if incurred or contracted by it. No actions or proceedings in which either of such corporations is a party shall abate or be discontinued by such agreement and act of consolidation, but may be conducted to final judgment in the names of such corporations, or such new corporation may be, by order of the court, on motion substituted as a party.

§ 74. Assessment of property of new corporation.—The real estate of such new corporations, situate within this state, shall be assessed and taxed in the several towns and cities where the same shall be situated in like manner as the real estate of other railroad corporations is, or may be taxed and assessed, and such proportion of the capital stock and personal property of such new corporation shall in like manner be assessed and taxed in this state, as the number of miles of its railroad situate in this state bears to the number of miles of its railroad situate in the other state or states.

§ 75. Stock of municipal corporation, how represented.—At any meeting of the stockholders of any railroad corporation to



the same has been approved by such vote of the stockholders, and the contract shall be executed in duplicate and filed in the offices where the certificates of incorporation of the contracting corporations are filed. The road of a corporation can not be used under any such contract in a manner inconsistent with the provisions of law applicable to its use by the corporation owning the same at the time of the execution of the contract. Such contract shall be executed by the corporations, parties thereto, and proved and acknowledged in such manner as to entitle the same to be recorded in the office of the clerk or register of each county through or into which the road so to be used shall run. Nothing in this section shall apply to any lease in existence prior to May 1, 1891. [*Thus amended by L. 1892, chap. 676.*]

§ 79. Lessees of railroad may acquire stock therein.—Any railroad corporation created by the laws of this state, or its successors, being the lessee of the road of any other railroad corporation, may take a surrender or transfer of the capital stock of the stockholders, or any of them in the corporation whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporation taking such surrender or transfer shall thereafter, on a resolution electing so to do, to be entered on their minutes, become ex-officio the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of such capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the secretary of state, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the corporation whose stock shall have been so surrendered or transferred, shall thereupon vest in and be held and enjoyed by the corporation, to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the corporation, to whom such surrender or transfer of such stock shall have been made, and in the corporate name of such corporation. Where stock shall have been so surrendered or transferred, the existing liabilities of the corporation, and the rights

of the creditors and of any stockholder not surrendering or transferring his stock, shall not be affected thereby.

**§ 80. Consolidation and lease of parallel lines prohibited.**—No railroad corporation or corporations owning or operating railroads whose roads run on parallel or competing lines, except street surface railroad corporations, shall merge or consolidate, or enter into any contract for the use of their respective roads, or lease the same, the one to the other, unless the board of railroad commissioners of the state or a majority of such board shall consent thereto. [*Thus amended by L. 1892, chap. 676.*]

**§ 81. Mortgagee may purchase at foreclosure sale.**—Any mortgagee of the property and franchises of any railroad corporation may become the purchaser of the same at any sale thereof under the mortgage, upon foreclosure by advertisement, or under a judgment, or decree, or otherwise, and hold and use the same, with all the rights and privileges belonging thereto or connected therewith for the period of six months, and convey the same to any railroad corporation.

**§ 82. Certificates of stock, may be issued after foreclosure in certain cases.**—If any person or corporation shall be entitled to certificates of stock subscribed to and paid for in any railroad corporation whose property and franchises have been sold under mortgage foreclosure, and such certificates have not been issued before foreclosure, the officers of the corporation shall, at any time within six months after the foreclosure sale issue and deliver to the person or corporation entitled thereto, upon demand, such certificates of stock, which shall have all the force and effect and confer upon the holder all the rights which he would have had if such certificates of stock had been issued at the time of the payment of the subscription thereto.

**§ 83. Liabilities of reorganized railroad corporations.**—A railroad corporation, reorganized under the provisions of law, relating to the formation of new or reorganized corporations upon the sale of their property or franchise, shall not be compelled or required to extend its road beyond the portion thereof constructed, at the time the new or reorganized corporation acquired title to such railroad property and franchise, provided the board of railroad commissioners of the state shall certify that in their opinion the public interests under all the circumstances do not require such extension. If such board shall so certify and shall file in their office such certificate, which certificate shall be irreversible by such board, such

the same has been approved by such vote of the stockholders, and the contract shall be executed in duplicate and filed in the offices where the certificates of incorporation of the contracting corporations are filed. The road of a corporation can not be used under any such contract in a manner inconsistent with the provisions of law applicable to its use by the corporation owning the same at the time of the execution of the contract. Such contract shall be executed by the corporations, parties thereto, and proved and acknowledged in such manner as to entitle the same to be recorded in the office of the clerk or register of each county through or into which the road so to be used shall run. Nothing in this section shall apply to any lease in existence prior to May 1, 1891. [*Thus amended by L. 1892, chap. 676.*]

§ 79. Lessees of railroad may acquire stock therein.—Any railroad corporation created by the laws of this state, or its successors, being the lessee of the road of any other railroad corporation, may take a surrender or transfer of the capital stock of the stockholders, or any of them in the corporation whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporation taking such surrender or transfer shall thereafter, on a resolution electing so to do, to be entered on their minutes, become ex-officio the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of such capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the secretary of state, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the corporation whose stock shall have been so surrendered or transferred, shall thereupon vest in and be held and enjoyed by the corporation, to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the corporation, to whom such surrender or transfer of such stock shall have been made, and in the corporate name of such corporation. Where stock shall have been so surrendered or transferred, the existing liabilities of the corporation, and the rights

of the creditors and of any stockholder not surrendering or transferring his stock, shall not be affected thereby.

§ 80. **Consolidation and lease of parallel lines prohibited.**—No railroad corporation or corporations owning or operating railroads whose roads run on parallel or competing lines, except street surface railroad corporations, shall merge or consolidate, or enter into any contract for the use of their respective roads, or lease the same, the one to the other, unless the board of railroad commissioners of the state or a majority of such board shall consent thereto. [*Thus amended by L. 1892, chap. 676.*]

§ 81. **Mortgagee may purchase at foreclosure sale.**—Any mortgagee of the property and franchises of any railroad corporation may become the purchaser of the same at any sale thereof under the mortgage, upon foreclosure by advertisement, or under a judgment, or decree, or otherwise, and hold and use the same, with all the rights and privileges belonging thereto or connected therewith for the period of six months, and convey the same to any railroad corporation.

§ 82. **Certificates of stock, may be issued after foreclosure in certain cases.**—If any person or corporation shall be entitled to certificates of stock subscribed to and paid for in any railroad corporation whose property and franchises have been sold under mortgage foreclosure, and such certificates have not been issued before foreclosure, the officers of the corporation shall, at any time within six months after the foreclosure sale issue and deliver to the person or corporation entitled thereto, upon demand, such certificates of stock, which shall have all the force and effect and confer upon the holder all the rights which he would have had if such certificates of stock had been issued at the time of the payment of the subscription thereto.

§ 83. **Liabilities of reorganized railroad corporations.**—A railroad corporation, reorganized under the provisions of law, relating to the formation of new or reorganized corporations upon the sale of their property or franchise, shall not be compelled or required to extend its road beyond the portion thereof constructed, at the time the new or reorganized corporation acquired title to such railroad property and franchise, provided the board of railroad commissioners of the state shall certify that in their opinion the public interests under all the circumstances do not require such extension. If such board shall so certify and shall file in their office such certificate, which certificate shall be irreversible by such board, such

and before acting thereon such authorities shall give public notice thereof and of the time and place when it will first be considered, which notice shall be published daily in any city for at least fourteen days in two of its daily newspapers if there be two, if not, in one, to be designated by the mayor, and in any village or town for at least fourteen days in a newspaper published therein, if any there shall be, and if none, then daily in two daily newspapers if there be two, if not, one published in the city nearest such village or town. Such consent must be upon the expressed condition that the provisions of this article pertinent thereto shall be complied with, and shall be filed in the office of the clerk of the county in which such railroad is located. [*Thus amended by L. 1892, chap. 676.*]

§ 93. Condition upon which consent shall be given; sale of franchise at public auction.—The consent of the local authorities, in cities containing twelve hundred and fifty thousand inhabitants or more, according to the last federal census or state enumeration, must contain the condition that the right, franchise and privilege of using any street, road, highway, avenue, park or public place shall be sold at public auction to the bidder who will agree to give the city the largest percentage per annum of the gross receipts of such corporation, with a bond or undertaking in such form and amount and with such conditions and sureties as may be required and approved by the comptroller or other chief fiscal officer of the city for the fulfillment of such agreement and for the commencement and completion of its railroad within the times hereinafter designated, according to the plan or plans, and on the route or routes fixed for its construction. Whenever such consent shall provide for the sale at public auction of the right to construct and operate a branch or extension of an existing railroad such consent shall provide that but one fare shall be exacted for passage over such branch or extension and over the line of road which shall have applied therefor, and, further, that if such right shall be purchased by any corporation other than the applicant, that the gross receipts from joint business shall be divided in the proportion that the length of such extension or branch so sold shall bear to the entire length of the road which shall have applied therefor and of such branch or extension, and that if such right shall be purchased by the applicant, the percentage to be paid shall be calculated on such portion of its gross receipts as shall bear the same proportion to the whole value thereof as the length of such extension or branch shall bear to the entire length of its road. The bidder to whom such right, franchise and privilege may be sold must be a duly incorpo-

rated railroad corporation of this state, organized to construct, maintain and operate a street railroad in the city for which such consent may be given ; but no such corporation shall be entitled to bid at such sale unless at least five days prior to the day fixed for such sale, or five days prior to the day to which such sale shall have been duly adjourned, the corporation shall have filed with the comptroller or other chief fiscal officer of the city, a bond in writing and under seal, with sufficient sureties to be approved by such comptroller or officer, conditioned that if such right, franchise and privilege shall be sold to such corporation, to pay to the city where such railroad is situated the sum of fifty thousand dollars as liquidated damages and not by way of penalty in the event of the failure of such bidder to fulfill the terms of sale, comply with the provisions of this article pertinent thereto, and complete and operate its railroad according to the plan or plans and upon the route and routes fixed for its construction within the time hereinafter designated for the construction and completion of its railroad, and also conditioned to pay to the corporation first applying for the consent, if it shall not be the successful bidder, the necessary expenses incurred by such corporation prior to the sale pursuant to requirement and direction of the local authorities, within twenty days after such sale and upon the certificate of the comptroller or other officer conducting the same as to the sum or amount to be paid. Notice of the time and place and terms of sale, and of the route or routes to be sold, and of the conditions upon which the consent of the local authorities to the construction, operation and extension of such street railroad will be given, must be published by such authorities for at least three successive weeks, and in any city having two or more daily newspapers, at least three times a week in two of such papers to be designated by the mayor, and in any city where two daily newspapers are not published, at least once a week in a newspaper published therein to be designated by the mayor. The comptroller or other chief fiscal officer of the city shall attend and conduct such sale and may twice adjourn the same, but not more than four weeks in all, and shall cancel any bid if the bidder shall not have furnished adequate security entitling such bidder to bid, or shall otherwise fail to comply with the terms and conditions of sale, and shall resell the consent and license in the same manner as hereinbefore provided for the first sale. The bidder who may build and operate such railroad shall at all times keep accurate books of account of the business and earnings of such railroad, which books shall at all times be sub-



ject to the inspection of the local authorities. In the event of the failure or refusal of the corporation operating or using such railroad to pay the rental or percentage of gross earnings agreed upon, and after notice of not less than sixty days to pay the same, the local authorities interested therein may apply to any court having jurisdiction upon at least twenty days' notice to such corporation, and after it shall have had an opportunity to be heard in its defense, for judgment declaring the consent and right to operate and use such railroad forfeited and authorizing the sale again of the same in the manner hereinbefore prescribed, provided, however, that no such resale of any such consent and right heretofore granted shall be authorized except upon the condition that the same shall be subject to all liens and incumbrances existing on said railroads at the time such forfeiture may have been declared. All consents hereafter given by the local authorities shall cease and determine at the expiration of two years thereafter, and every such consent heretofore given to a corporation incorporated under chapter two hundred and fifty-two of the laws of eighteen hundred and eighty-four for the purpose of constructing and operating a street surface railroad only wholly south of the Harlem river shall continue until June thirty, eighteen hundred and ninety-three, when it shall cease, unless prior thereto the consent of a sufficient number of the property owners or the order of the general term in lieu thereof shall have been first obtained, and the provisions of this section shall apply to all applications for such consents, made under any statute either before or after the passage of this chapter, and not finally acted upon at the time of its passage. Whenever it shall be desired to unite two street surface railroad routes at some point not over one-half mile from such respective lines or routes, and establish by the construction of such connection a new route for public travel, and the corporation or corporations owning or using such railroads shall consent to operate such connection as a part of a continuous route for one fare, and it shall appear to the local authorities that such connection cannot be operated as an independent railroad without inconvenience to the public, but that it is to the public advantage that the same should be operated as a continuous line or route with existing railroads, or whenever, for the purpose of connecting with any ferry or railroad depot, it shall be desired to construct an extension or branch not more than one-half mile in length, of any street surface railroad corporation, no sale of such franchise shall be made as provided in this section, but any consent of the local authorities for the construction and operation of

such connection, extension or branch shall provide that the corporation or corporations operating such connection, extension or branch shall pay into the treasury of said city annually the percentage provided for extensions or branches in section ninety-five of this chapter, for the purposes, at the times, in the manner and upon the conditions set forth in such section. Nothing herein contained shall be construed as applying to or affecting or modifying the terms of a certain contract bearing date January 1, 1892, entered into by and between the city of Buffalo and the various street surface railroad corporations therein named in such contract. [*Thus amended by L. 1892, chap. 676.*]

§ 93.\* **Condition upon which consent shall be given ; sale of franchise at public auction.**—The consent of the local authorities in cities containing twelve hundred and fifty thousand inhabitants or more, according to the last federal census or state enumeration, must contain the condition that the right, franchise and privilege of using any street, road, highway, avenue, park or public place shall be sold at public auction to the bidder who will agree to give the city the largest percentage per annum of the gross receipts of such corporation, with a bond or undertaking in such form or amount and with such conditions and sureties as may be required and approved by the comptroller or other chief fiscal officer of the city for the fulfillment of such agreement and for the commencement and completion of its railroad within the times hereinafter designated according to the plan or plans and on the route or routes fixed for its construction. Whenever such consent shall provide for the sale at public auction of the right to construct and operate a branch or extension of an existing railroad, such consent shall provide that but one fare shall be exacted for passage over such branch or extension and over the line of road which shall have applied therefor, and further, that if such right shall be purchased by any corporation other than the applicant that the gross receipts from joint business shall be divided in the proportion that the length of such extension or branch so sold shall bear to the entire length of the road which shall have applied therefor, and of such branch or extension and that if such right shall be purchased by the applicant, the percentage to be paid shall be calculated on such portion of its gross receipts as shall bear the same proportion to the whole value thereof as the

\* NOTE.—Section 93 of the railroad law was amended by chapters 306 and 676 of the Laws of 1892. The latter chapter was based upon a bill reported to the legislature of 1892, by the commissioners of statutory revision, proposing various amendments to the railroad law. By reason of section 38 of the statutory construction law, there may be a question as to which of these two amendments supersedes the other. Both are therefore inserted here.

length of such extension or branch shall bear to the entire length of its road. The bidder to whom such right, franchise and privilege may be sold must be a duly incorporated railroad corporation of this state, organized to construct, maintain and operate a street railroad in the city for which such consent may be given, but no such corporation shall be entitled to bid at such sale unless at least five days prior to the day fixed for such sale, or five days prior to the day to which such sale shall have been duly adjourned, the corporation shall have filed with the comptroller or other chief fiscal officer of the city, a bond in writing and under seal, with sufficient sureties to be approved by such comptroller or officer, conditioned that if such right, franchise and privilege shall be sold to such corporation to pay to the city where such railroad is situated the sum of fifty thousand dollars as liquidated damages and not by way of penalty in the event of the failure of such bidder to fulfill the terms of sale, comply with the provisions of this article pertinent thereto, and complete and operate its railroad according to the plan or plans and upon the route and routes fixed for its construction within the time hereinafter designated for the construction and completion of its railroad, and also conditioned to pay to the company first applying for the consent, if it shall not be the successful bidder, the necessary expenses incurred by such corporation prior to the sale pursuant to requirement and direction of the local authorities, within twenty days after such sale and upon the certificate of the comptroller or other officer conducting the same as to the sum or amount to be paid. Notice of the time and place, and terms of sale, and of the route or routes to be sold, and of the conditions upon which the consent of the local authorities to the construction, operation and extension of such street railroad will be given, must be published by such authorities for at least three successive weeks, and in any city having two or more daily newspapers at least three times a week in two of such papers to be designated by the mayor, and in any city where two daily newspapers are not published, at least once a week in a newspaper published therein to be designated by the mayor. The comptroller or other chief fiscal officer of the city shall attend and conduct such sale and may twice adjourn the same, but not more than four weeks in all, and shall cancel any bid if the bidder shall not have furnished adequate security entitling such bidder to bid or shall otherwise fail to comply with the terms and conditions of sale, and shall resell the consent and license in the same manner as hereinbefore provided for the first sale. The bidder who may build and operate

such railroad shall at all times keep accurate books of account of the business and earnings of such railroad which books shall at all times be subject to the inspection of the local authorities. In the event of the failure or refusal of the corporation operating or using such railroad to pay the rental or percentage of gross earnings agreed upon, and after notice of not less than sixty days to pay the same, the local authorities interested therein may apply to any court having jurisdiction upon at least twenty days' notice to such corporation, and after it shall have had an opportunity to be heard in its defense, for judgment declaring the consent and right to operate and use such railroad forfeited and authorizing the sale again of the same in the manner hereinbefore prescribed, provided, however, that no such resale shall be authorized except upon the condition that the same shall be subject to all liens and incumbrances existing on said railroads at the time such forfeiture may have been declared. All consents hereafter given by the local authorities shall cease and determine at the expiration of two years thereafter, and all such consents heretofore given shall continue until June thirtieth, eighteen hundred and ninety-three, when they shall cease, unless prior thereto the consent of a sufficient number of the property owners or the order of the general term in lieu thereof shall have been first obtained, and the provisions of this section shall apply to all applications for such consents, made under any statute either before or after the passage of this chapter, and not finally acted upon at the time of its passage. Whenever it shall be desired to unite two street surface railroads or railroad routes at some point not over one-half mile from such respective lines or routes and establish by the construction of such connection a new route for public travel and the corporation or corporations owning or using such railroads shall consent to operate such connection as a part of a continuous route for one fare, and it shall appear to the local authorities that such connection cannot be operated as an independent railroad without inconvenience to the public, but that it is to the public advantage that the same should be operated as a continuous line or route with existing railroads, or whenever, for the purpose of connecting with any ferry or railroad depot, it shall be desired to construct an extension or branch not more than one-half mile in length of any street surface railroad, no sale of such franchise shall be made as provided in this section, but any consent of the local authorities for the construction and operation of such connection, extension or branch shall provide that the corporation or corporations operating

such connection, extension or branch shall pay into the treasury of said city annually the percentages provided for extensions or branches in section ninety-five of this article, for the purposes, at the times, in the manner and upon the conditions set forth in such section. [*Thus amended by L. 1892, chap. 306.*]

§ 94. **Proceedings if property owners do not consent.**—If the consent of property owners required by any provision of this article can not be obtained, the corporation failing to obtain such consents may apply to any general term of the supreme court held in the department in which it is proposed to construct its road for the appointment of three commissioners to determine whether such railroad ought to be constructed and operated. Notice of such application must, at least ten days prior thereto, be served, personally, upon each non-consenting property owner by delivering the same to the person to whom such property is assessed upon such assessment-roll or by duly mailing the same, properly folded and directed, to such property owner at his post-office address with the postage prepaid thereon. If the person upon whom service is to be made is unknown, or his residence and post-office address are unknown and cannot by reasonable diligence be ascertained, service of such notice may be made by publishing the same in such newspaper of the county as the court may direct, at least once a week for two successive weeks. Upon due proof of service of such notice the court to which the application is made shall appoint three disinterested persons, who shall act as commissioners, and who shall, within ten days after their appointment, cause public notice to be given of their first meeting in the manner directed by the court, and may adjourn from time to time, until all their business is completed. Vacancies may be filled by the court after such notice to parties interested as it may deem proper to be given; and the evidence taken before as well as after the happening of the vacancy shall be deemed to be properly before such commissioners. After a public hearing of all parties interested, the commissioners shall determine whether such railroad ought to be constructed and operated, and shall make a report thereon, together with the evidence taken, to the general term, within sixty days after appointment, unless the court, or a judge thereof, for good cause shown, shall extend such time; and their determination that such road ought to be constructed and operated, confirmed by such court, shall be taken in lieu of the consent of the property owners hereinbefore required. The commissioners shall each receive ten dollars for each day spent in the performance of



their duties and their necessary expenses and disbursements, which shall be paid by the corporation applying for their appointment. [*Thus amended by L. 1892, chap. 676.*]

§ 95. **Percentage of gross receipts to be paid in cities or villages ; report of officers.** — Every corporation building or operating a railroad, or a branch or extension thereof, under the provisions of this article, or of chapter 252 of the laws of 1884, within any city of the state having a population of 1,200,000 or more, shall, for and during the first five years after the commencement of the operation of any portions of its railroad annually, on November first, pay into the treasury of the city in which its road is located, to the credit of the sinking fund thereof, three per cent of its gross receipts for and during the year ending September thirtieth next preceding; and after the expiration of such five years, make a like annual payment into the treasury of the city to the credit of the same fund, of five per cent of its gross receipts. If a street surface railroad corporation existing and operating any such railroad in any such city on May 6, 1884, shall have thereafter extended its tracks or constructed branches therefrom, and shall operate such branches or extensions under the provisions of chapter 252 of the laws of 1884, or of this article, such corporation shall pay such percentages only upon such portion of its gross receipts as shall bear the same proportion to its whole gross receipts as the length of such extension or branches shall bear to the entire length of its line. In any other incorporated city or village the local authorities shall have the right to require, as a condition to their consent to the construction, operation or extension of a railroad under the provisions of this article, the payment annually of such percentage of gross receipts, not exceeding three per cent, into the treasury of the city or village as they may deem proper. In case of extension the amount to be paid shall be ascertained in the manner heretofore provided. The corporation failing to pay such percentage of its gross earnings shall, after November first, pay in addition thereto five per cent a month, on such percentage until paid. The president and treasurer of any corporation required by the provisions of this article to make a payment annually upon its gross receipts shall, on or before November first in each year make a verified report to the comptroller or chief fiscal officer of the city of the gross amount of its receipts for the year ending September thirtieth, next preceding, and the books of such corporation shall be open to inspection and examination by such comptroller or officer, or his duly appointed agent, for the purpose of



ascertaining the correctness of its report as to its gross receipts. The corporate rights, privileges and franchises acquired under this article or such chapter by any corporation, which shall fail to comply with all the provisions of this section, shall be forfeited to the people of the state, and upon judgment of forfeiture rendered in an action brought in the name of the people by the attorney-general, shall cease and determine. [*Thus amended by L. 1892, chap. 676.*]

§ 96. **Extension of route over rivers; terminus in other counties; when property owners withhold consent supreme court may appoint commissioners.**—Any street railroad except in the counties of New York or Kings, now in operation in this state, which shall, by a two-thirds vote of its directors, decide to extend the route of its road, so as to cross the Hudson river over and by any bridge now or hereafter constructed under the provisions of any law of this state, may so extend their route over and across such bridge upon such terms as may be mutually agreed upon between it and such bridge company, and may locate the terminus of their road in the county adjoining the one in which their road is now located and in operation. Upon first obtaining the consent of such bridge company or its lessees, and the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad, or in case the consent of such property owners can not be obtained the general term of the supreme court in the district in which it is proposed to be constructed may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

§ 97. **Use of tracks of other roads.**—Any railroad corporation in this state, whose cars are run and operated by horses or other motive power, authorized by this article, upon the surface of the street, excepting in the city and county of New York, may, for the purpose of enabling it to connect with and run and operate its cars between its tracks, and a depot or car-house owned by it, run upon, intersect, and use, for not exceeding five hundred feet, the tracks of any other railroad corporation, the cars of which are run and operated in like manner with the necessary connections and switches for the proper working and accommodation of the cars upon such tracks, and in connection with such depot or car-house, upon

paying therefor such compensation as it may agree upon with the corporation owning the tracks to be so run upon, intersected, and used; and in case such corporations can not agree upon the amount of such compensation, the same shall be ascertained and determined in the manner prescribed in the condemnation law.

§ 98. **Repair of streets; rate of speed; removal of ice and snow.**—Every street surface railroad corporation so long as it shall continue to use any of its tracks in any street, avenue or public place in any city or village shall have and keep in permanent repair that portion of such street, avenue or public place between its tracks, the rails of its tracks, and two feet in width outside of its tracks, under the supervision of the proper local authorities, and whenever required by them to do so, and in such manner as they may prescribe. In case of the neglect of any corporation to make pavements or repairs after the expiration of thirty days notice to do so, the local authorities may make the same at the expense of such corporation, and such authorities may make such reasonable regulations and ordinances as to the rate of speed, mode of use of tracks, and removal of ice and snow, as the interests or convenience of the public may require. A corporation whose agents or servants willfully or negligently violate such an ordinance or regulation, shall be liable to such city or village for a penalty not exceeding five hundred dollars to be specified in such ordinance or regulation. [*Thus amended by L. 1892, chap. 676.*]

§ 99. **Within what time road to be built.**—In case any such corporation shall not commence the construction of its road, or of any extension thereof within one year after it has obtained the consent of the local authorities and property owners, or the determination of the general term as herein required, and shall not complete the same within three years after obtaining such consents, its rights, privileges and franchises shall cease and determine. If the performance of any such act, within such time, is prevented by legal proceeding, such court may also extend such time during the time that performance is so prevented. The time for compliance with the requirements of this section by a street surface railroad corporation incorporated for the purpose of constructing a street surface railroad only, wholly south of the Harlem river and in cities of over twelve hundred thousand inhabitants and which has heretofore obtained such consents is hereby extended until June 30th, 1893. [*Thus amended by L. 1892, chap. 676.*]

§ 100. **Motive power.**—Any street surface railroad may operate

any portion of its road by animal or horse power, or by cable, electricity, or any power other than locomotive steam power, which may be approved by the state board of railroad commissioners, and consented to by the owners of one-half of the property bounded on that portion of the railroad with respect to which a change of motive power is proposed; and if the consent of such property owners can not be obtained, the determination of three disinterested commissioners, appointed by the general term of the supreme court of the department in which such railroad is located, in favor of such motive power, confirmed by the court, shall be taken in lieu of the consent of the property owners. The consent of the property owners shall be obtained and the proceedings for the appointment and the determination of the commissioners and the confirmation of their report shall be conducted in the manner prescribed in sections ninety-one and ninety-four of this article, so far as the same can properly be made applicable thereto.

Any railroad corporation making a change in its motive power under this section, may make any changes in the construction of its road or road bed or other property rendered necessary by the change in its motive power. [*Thus amended by L. 1892, chap. 676.*]

§ 101. Rate of fare.—No corporation constructing and operating a railroad under the provisions of this article, or of chapter 252 of the laws of 1884, shall charge any passenger more than five cents for one continuous ride from any point on its road, or on any road, line or branch operated by it, or under its control, to any other point thereof, or any connecting branch thereof, within the limits of any incorporated city or village. Not more than one fare shall be charged within the limits of any such city or village, for passage over the main line of road and any branch or extension thereof if the right to construct such branch or extension shall have been acquired under the provisions of such chapter or of this article. This section shall not apply to any part of any road constructed prior to May 6, 1884, and then in operation, unless the corporation owning the same shall have acquired the right to extend such road, or to construct branches thereof under such chapter, or shall acquire such right under the provisions of this article, in which event its rate of fare shall not exceed its authorized rate prior to such extension. The legislature expressly reserves the right to regulate and reduce the rate of fare on any railroad constructed and operated wholly or in part under such chapter or under the provisions of this article. [*Thus amended by L. 1892, chap. 676.*]

§ 102. Construction of road in street where other road is built.—No street surface railroad corporation shall construct, extend or operate its road or tracks in that portion of any street, avenue, road or highway, in which a street surface railroad is, or shall be lawfully constructed, except for necessary crossings or, in cities, villages and towns of less than 1,250,000 inhabitants, over any bridge, without first obtaining the consent of the corporation owning and maintaining the same, except that any street surface railroad company may use the tracks of another street surface railroad company for a distance not exceeding one thousand feet, and in cities, villages and towns of less than 1,250,000 inhabitants shall have the right to lay its tracks upon and run over and use any bridge used wholly or in part as a foot bridge, whenever the court upon an application for commissioners shall be satisfied that such use is actually necessary to connect main portions of a line to be constructed as an independent railroad, or to connect said railroad with a ferry, and that the public convenience requires the same, in which event the right to such use shall only be given for a compensation to an extent and in a manner to be ascertained and determined by commissioners to be appointed by the courts as is provided in the condemnation law, or by the board of railroad commissioners in cases where the corporations interested shall unite in a request for such board to act. Such commissioners in determining the compensation to be paid for the use by one corporation of the tracks of another, shall consider and allow for the use of tracks and for all injury and damage to the corporation whose tracks may be so used. Any street surface railroad corporation may, in pursuance of a unanimous vote of its stockholders voting at a special meeting called for that purpose, by notice in writing, signed by a majority of the directors of such corporation stating the time, place and object of the meeting, and served upon each stockholder appearing as such upon the books of the corporation, personally or by mail, at his last known post-office address, at least sixty days prior to such meeting, guarantee the bonds of any other street surface railroad corporation whose road is wholly or partly in the same city. [*Thus amended by L. 1892, chap. 676.*]

§ 102. \*Construction of road in street along or across where other road is built.—No street surface railroad corporation

\*NOTE.—Section 102 of the railroad law was amended by chapters 306 and 676 of the Laws of 1892. The latter chapter was based upon a bill reported to the legislature of 1892, by the commissioners of statutory revision, proposing various amendments to the railroad law. By reason of section 33 of the statutory construction law, there may be a question as to which of these two amendments supersedes the other. Both are, therefore, inserted here.

shall construct, extend or operate its road or tracks in that portion of any street, avenue, road or highway, in which a street surface railroad is, or shall be lawfully constructed, except for necessary crossings, without first obtaining the consent of the corporation owning and maintaining the same except that any street surface railroad company may use the tracks of another street surface railroad company for a distance not exceeding one thousand feet, whenever the court upon an application for commissioners shall be satisfied that such use is actually necessary to connect main portions of a line to be constructed as an independent railroad, or to connect said railroad with a ferry, and that the public convenience requires the same, in which event the right to such use shall only be given for a compensation to an extent and in a manner to be ascertained and determined by commissioners to be appointed by the courts as is provided in the condemnation law, or by the board of railroad commissioners in cases where the corporations interested shall unite in a request for such board to act. Such commissioners in determining the compensation to be paid for the use by one corporation of the tracks of another, shall consider and allow for the use of tracks and for all injury and damage to the corporation whose tracks may be so used. [*Thus amended by L. 1892, chap. 306.*]

§ 103. **Abandonment of part of route.**—Any street surface railroad corporation which is the lessee or lessor, or both, or which has the right to use the route or portion of the route of another such corporation pursuant to a lease or agreement lawfully entered into with it, may declare any portion of its own route which it may deem no longer necessary for the successful operation of its road and convenience of the public in consequence of such lease or contract, to be relinquished or abandoned. Such declaration of abandonment must be adopted by the board of directors of the corporation under its seal, which shall be submitted to the stockholders thereof at a meeting called and conducted in the same manner as required by law for meetings of stockholders for the approval of leases by railroad corporations for the use of their respective roads. If the stockholders shall, at such meeting, ratify and adopt such declaration of abandonment, the secretary of the company shall so certify under the seal of the corporation, upon such declaration. Such declaration shall then be submitted to the board of railroad commissioners for its approval, and if approved by such board, such approval shall be indorsed thereon or annexed thereto, and the declara-

tion so certified and indorsed shall be filed and recorded in the office of the secretary of state, and from the time of such filing, such portion of the route designated in the declaration shall be deemed to be abandoned. [*Thus amended by L. 1892, chap. 676.*]

§ 104. **Contracting corporations to carry for one fare ; penalty.**—Every such corporation entering into such contract shall carry or permit any other party thereto to carry between any two points on the railroads or portions thereof embraced in such contract any passenger desiring to make one continuous trip between such points for one single fare, not higher than the fare lawfully chargeable by either of such corporations for an adult passenger. Every such corporation shall upon demand, and without extra charge, give to each passenger paying one single fare a transfer, entitling such passenger to one continuous trip to any point or portion of any railroad embraced in such contract, to the end that the public convenience may be promoted by the operation of the railroads embraced in such contract substantially as a single railroad with a single rate of fare. For every refusal to comply with the requirements of this section the corporation so refusing shall forfeit fifty dollars to the aggrieved party. The provisions of this section shall only apply to railroads wholly within the limits of any one incorporated city or village. [*Thus amended by L. 1892, chap. 676.*]

§ 105. **Effect of dissolution of charter as to consents.**—Whenever any street surface railroad corporation shall have been dissolved or annulled, or its charter repealed by an act of the legislature, the consent of owners of property bounded on, and the consent of the local authorities having the control of that portion of a street or highway upon which the railroad of such corporation shall have been theretofore constructed and operated, and the order of the general term confirming the report of any commissioner that such railroad ought to be constructed or operated, shall not, nor shall either thereof, be deemed to be in any way impaired, revoked, terminated or otherwise affected by such act of dissolution, annulment or repeal, but the same and each thereof shall continue in full force, efficacy and being. The right to the further enjoyment and to the use thereof, subsequent to such act of dissolution, annulment or repeal, and of all the powers, privileges and benefits therein or thereby created, shall be sold at public auction by the local authorities within whose jurisdiction such railroads shall be, in the same manner as is provided in section ninety-three of this article. When such sale shall have been so made, the purchaser thereat shall have the right



to the further enjoyment and use of such consents and orders, and of each thereof, and of all the powers, privileges and benefits therein or thereby created, in like manner as if such purchaser had been originally named in such consents, reports and orders; if such purchaser shall be otherwise authorized by law to construct, maintain and operate a street surface railroad within the municipality within which such railroad shall be. [*Thus amended by L. 1892, chap. 676.*]

§ 106. Corporate rights saved in case of failure to complete road; right to operate branches; conditions; former consents ratified; limitations.—The corporate existence of and powers of every street surface railroad corporation, which has completed a railroad upon the greater portion of the route designated in its certificate of incorporation, within ten years from the date of filing such certificate in the office of the secretary of state, and which has operated such completed portion of its railroad continuously for a period of five years last past, and is now operating the same, shall continue with like force and effect, as though it had in all respects complied with the provisions of law with reference to the time when it should have fully completed its road. Every such corporation shall have the right to operate any extensions\* and branches of its railroad, now constructed and operated by it, which have been so constructed and operated by it, for a period of ten years last past, with like force and effect, as though the route of such extensions\* and branches were designated in its certificate of incorporation. But every such street railroad corporation is authorized to operate such railroad and any extension\* or branches thereof, upon condition that it has heretofore, or shall hereafter, obtain the consent of the local authorities having the control of that portion of the streets, avenues or highways included in such railroad, or any extension or branches thereof, to the construction and operation of the same, and also upon the condition that it has heretofore or shall hereafter first obtain the consent of the owners of one-half in value of the property bounded on the portion of the streets, avenues or highways included in the route of such railroad, or any extension\* or branches thereof, to the construction and operation of the same, or in case the consent of such property owners can not be obtained, the general term of the supreme court of the department in which such railroad or any extension or branch thereof is located, may, upon application, appoint three commissioners who shall determine, after a hearing of all the parties interested, whether such

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\*So in the original.

railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners. All consents heretofore given, or grants made by local authorities having the control of the portion of any street, avenue or highway included in the route of such railroad, or any extensions or branches thereof, to any such street surface railroad corporation, are hereby ratified and confirmed and declared valid. This section shall be applicable to any such corporation in any town, city or village having less than twenty thousand inhabitants which has completed any portion of its road upon the route designated in its certificate of incorporation within the time required by law for the completion of its road.

This section shall not apply to or affect any railroad corporation in the city of New York; nor any special grant made to or authority conferred upon any street surface railroad corporation by any law of this state; nor any pending litigation; nor shall it impair existing rights, privileges or franchises of any street surface railroad corporation. [*Thus amended by L. 1892, chap. 676.*]

§ 107.\* **When sand may be used on tracks.**—The owner or operator of any street surface railroad in cities of this state having a population of five hundred thousand or more, may place upon the space between the rails of such road, sand in sufficient quantities and no more to prevent the horses traveling thereon from slipping. [*Thus amended by L. 1892, chap. 676.*]

§ 108.\* **Road not to be constructed upon ground occupied by public buildings or in public parks.**—No street surface railroad shall be constructed or extended upon ground occupied by buildings belonging to any town, city, county, or to the state, or to the United States, or in public parks, except in tunnels to be approved by the local authorities having control of such parks. [*Thus amended by L. 1892, chap. 676.*]

§ 109. **Centre-bearing rails prohibited.**—No street surface railroad corporation shall hereafter lay down in the streets of any incorporated city or village of this state what are known as “center-bearing” rails; but in all cases, whether in laying new track or in replacing old rails, shall lay down “grooved” or some other kind of rail not “center-bearing” approved by the local authorities. Such grooved or other rail shall be of such shape and so laid as to permit the paving-stones to come in close contact with the projection which serves to guide the flange to the car wheel. Where in any city, the duty of repairing and repaving streets, as distinguished from the au-

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\* See L. 1892, chap. 400.

thorization of such paving, repairing and repaving, is by law vested in any local authority other than the common council of such city, such other local authority shall be the local authority referred to in this section. [*Thus amended by L. 1892, chap. 676.*]

§ 110. Right to cross bridge substituted for a bridge crossed for five years.—Should any street surface railroad company have crossed any bridge as a part of its route for a period of more than five years and should any other bridge be substituted therefor at any time, such company shall have the right to cross such substituted bridge and to lay and use railway tracks thereon for the transit of its cars and to make all changes and extensions of its route subject to all the provisions of this act, as the convenient operation of its cars and public convenience may require. [*This section added by L. 1892, chap. 676.*]

## ARTICLE V.

### OTHER RAILROADS IN CITIES AND COUNTIES.

- SECTION 120. Application for railway; commissioners.
- 121. Oath and bond of commissioners.
  - 122. First meeting of commissioners.
  - 123. Determination of necessity of railroad and route.
  - 124. Adoption of plans and terms upon which road shall be built.
  - 125. Appraisal of damages and deposit of money as security.
  - 126. Shall prepare certificate of incorporation; proviso as to forfeiture.
  - 127. Organization.
  - 128. Commissioners to deliver certificate; affidavit of directors.
  - 129. Powers.
  - 130. Crossing of horse railroad track.
  - 131. Where route coincides with another route.
  - 132. Commissioners; to transfer plans, et cetera.
  - 133. Commissioners to file reports; confirmation thereof.
  - 134. Pay of commissioners.
  - 135. Quorum; term of office; removal; vacancies in board of commissioners.
  - 136. Abandonment or change of route; new commissioners; their powers and proceedings.
  - 137. Increased deposits; when and how required.
  - 138. Trains to come to full stop, etc.
  - 139. Gates.
  - 140. Penalty for violation of this article.
  - 141. Sections to be printed and posted.
  - 142. Extension of time.

[*Thus amended by L. 1892, chap. 676.*]

§ 120. Application for railway; commissioners.—Upon the application of at least fifty reputable householders and taxpayers of

any county or city, verified upon oath before a justice of the supreme court, that there is need in said county or city of a steam railway in the streets, avenues and public places thereof for the transportation of passengers, mails or freight, the board of supervisors of such county may, within thirty days thereafter by resolution, approve of the application, and authorize its presentation to the supreme court, and if the railway is to be built wholly within the limits of a city, upon the application of a like number of householders and taxpayers of the city to the mayor thereof, such mayor may, within thirty days thereafter, indorse upon the application his approval and direction that it may be presented to the supreme court, and if the railway is to be built, partly within the limits of a city and partly without, such application shall be approved, both by the mayor of the city and the board of supervisors of the county, and its presentation to the supreme court authorized by them, and upon the presentation of such application so approved and authorized to a special term of the supreme court, held in the district where such railway is to be built, or some part thereof, the court may appoint five commissioners, residents of the city if the railway is to be built wholly within the city, and of the county, if it is to be built wholly or partly outside of the limits of a city, to determine the necessity of such railroad, the route thereof, the time within which and the conditions upon which it shall be constructed, the damages to the property owners along the line thereof and all the matters lawfully submitted to them, and discharge the duties imposed upon them by law.

§ 121. Oath and bond of commissioners.—Within ten days after his appointment and before entering upon the discharge of any of the duties of his office, each commissioner shall take and subscribe the constitutional oath of office, which shall be filed in the office of the clerk of the county and shall execute a bond to the people of the state in the penal sum of twenty-five thousand dollars, with two or more sureties, to be approved by a justice of the supreme court of the department in which the railway is to be built and conditioned for the faithful performance of the duties of the office, which bond shall be filed in the office of the clerk of the county.

§ 122. First meeting of commissioners.—Within fifteen days after their appointment, the commissioners shall meet in some convenient place in the county or city and organize themselves as a board with appropriate officers.

§ 123. Determination of necessity of railroad and route.—The commissioners shall, within thirty days after such organization,

determine upon the necessity of such steam railroad, and if they find it to be necessary, they shall, within sixty days after such organization, fix and determine the route therefor, and shall have the exclusive power to locate such route, over, under, through or across the streets, avenues, places or lands in such county or city, and to provide for the connection or junction with any other railway or bridge, if the consent of the owners of one-half in value of the property bounded on and the consent of the local authorities having control of that portion of a street or highway, upon which it is proposed to construct or operate such railway have been first obtained. If the consent of such property owners can not be obtained, the determination of three commissioners appointed by the general term of the supreme court of the department where the railroad is to be constructed, made after due hearing of all parties interested, and confirmed by the court, that such railway ought to be constructed and operated, may be taken in lieu of the consent of such property owners. No such railway shall be located in or upon such portion of any street, avenue, place or lands in such county as are now occupied by an elevated or underground railway or in which such a railway has already been authorized by law to be so located and constructed, or which are contained in public parks, or occupied by buildings belonging to the county or the state or United States, or in or upon the following streets, avenues and public places, viz.: Broadway, Fifth avenue, Fourth avenue above Forty-second street, in the city of New York; Debevoise place, Irving place, Lefferts place, those portions of Grand, Classon and Franklin avenues and Dowling street lying between the southerly line of Lexington avenue and the northerly line of Atlantic avenue, that portion of Classon avenue lying between the northerly line of Lexington avenue and the southerly line of Park avenue, and that portion of Washington avenue lying between Park and Atlantic avenues in the city of Brooklyn; and that portion of the city of Buffalo lying between Michigan and Main streets, but such railway may be located and constructed across such excepted streets, avenues and places at their intersection only with other streets, avenues and places. [*As amended by L. 1892, chap. 676.*]

§ 124. Adoption of plans, and terms upon which road shall be built.—The commissioners by such public notice, and under such conditions, and with such inducements as they may prescribe, shall invite a submission of plans for the construction and operation of such railway, and shall meet at a time and place in such notice named,

not more than ninety days after their organization, and decide upon the plans for the construction thereof, with the necessary supports, turnouts, switches, sidings, connections, landing-places, stations, buildings, platforms, stairways, elevators, telegraph and signal devices, or other requisite appliances, upon the route or location determined upon by them. They shall, upon notice to the local authorities, and after hearing all parties interested, fix and determine what compensation, if any, in a gross sum, or in a certain percentage of receipts, shall annually be paid to the local authorities by the corporation formed for the purpose of constructing, maintaining and operating such railway for public use in the conveyance of persons and property, for the use and occupation by the corporation of the streets, avenues and highways in and upon which its railway is to be constructed, and the time when such railway, or a portion thereof, shall be constructed and ready for operation, and the maximum rates to be paid for transportation and conveyance thereon, and the hours during which special cars or trains shall be run at reduced rates of fare; and the amount of the capital stock of such corporation, and the number of shares into which it shall be divided, and the percentage thereof to be paid in cash on subscribing for such shares.

The commissioners may select two or more routes, upon one of which such railway may be constructed and operated; and the local authorities may consent to the construction and operation of such railway upon one or more of such routes, or parts thereof; and the commissioners shall have power to change and readopt routes and plans for the construction and operation of such railway, after they have been submitted to the local authorities, in cases where such authorities may recommend such changes, or may not be willing to consent to the construction or operation of the railway, upon the routes and plans adopted, unless such changes are made therein. [*Thus amended by L. 1892, chap. 676.*]

§ 125. Appraisal of damages and deposit of money as security.—The commissioners shall, within one hundred and ten days after their organization, ascertain and determine the aggregate pecuniary damage arising from the diminution in the value of the property bounded on that portion of such street or streets, highway or highways, upon which it is proposed to construct and operate such railway to be caused by the construction and operation thereof. For that purpose they shall view the several parcels of real property so bounded, and shall appraise separately the pecuniary damages



arising from such diminution in value of each parcel thereof, and for the purposes of such appraisal they shall give notice of the time and place, when and where they will meet to hear the owners, or persons interested in such real property, which notice shall be published for at least ten days consecutively in at least two newspapers in the county where such railway is to be constructed, and shall take such material testimony upon the probable diminution in value of any or all such parcels to be so caused as may be offered by or in behalf of any person or party interested therein, and the aggregate sum of the amounts so appraised and determined by them shall be the aggregate pecuniary damage required to be ascertained and determined as above provided. No corporation which shall hereafter be organized under this article shall enter upon any street, highway or lane therein, until it shall first have deposited with some trust company, to be designated by the mayor of the city within which it is proposed to construct the railway or any part thereof, and by the board of supervisors, when the road does not lie wholly within a city, a sum of money equal to the amount so ascertained and determined by the commissioners to be the aggregate pecuniary damage to such property within the city, or within the county outside of any city, or shall have secured the payment of such amount by depositing with such trust company negotiable securities, equivalent at their par and actual value to such aggregate amount, and approved by the mayor of the city in which such road is wholly or in part located, and by the county treasurer of the county if the road is located wholly or in part outside of the limits of such city. The court may accept in lieu of the deposit of money or securities herein required the bond of the corporation, with two or more sureties, to be approved by the court, to the effect that the corporation before constructing or operating its railway in front of any premises, shall pay to the owner of the real property all the damages sustained, or which will be sustained by him, as fixed and determined by such commissioners, and the costs allowed, if any. Such bond shall be in a sum double the amount of such damages, and the sureties shall justify in the aggregate to an amount equal to the amount of such bond. Such corporation shall also, at the same time, deposit with such trust company or with the county treasurer, as the commissioners may direct, the sum of five thousand dollars in cash, for the payment of the expense of apportioning and distributing such fund. Unless such moneys or securities shall be deposited by such corporation within one year after it shall have obtained the consent of the

local authorities, and of the property owners, or the confirmation by the general term of the supreme court, of the determination of three commissioners in lieu thereof, and in the case of a corporation heretofore organized within one year after it shall have obtained the confirmation by the general term of the supreme court of the report of three commissioners in lieu of the consent of property owners, or within one year after the commissioners appointed to ascertain and determine the aggregate pecuniary damages as provided in this article, shall have made their report, then such corporation shall be deemed not to have accepted the franchises granted. Where the commissioners shall fix and determine different periods of time within which different sections of such railway shall be constructed and ready for operation, they shall ascertain, determine, and report separately the aggregate pecuniary damage to property bounded upon that portion of such street or streets upon which each of such sections is located. Upon the deposit by the corporation as above provided of moneys or securities equivalent to the aggregate pecuniary damage to be sustained by any one of such sections, or of any bond given in lieu thereof, it shall immediately be vested with the right and privilege to construct its railway through such section. [*Thus amended by L. 1892, chap. 676.*]

§ 126. Shall prepare certificate of incorporation ; proviso as to forfeiture.—The commissioners shall prepare an appropriate certificate of incorporation for the corporation in the last section mentioned in which shall be set forth and embodied, as component parts thereof, the several conditions, requirements and particulars by such commissioners determined pursuant to the provisions of this article, and which shall also provide for the release and forfeiture to the supervisors of the county, or if the road is to be constructed wholly or partly within a city, to such city, of all rights and franchises acquired by such corporation in case such railway or railways shall not be completed within the time and upon the conditions therein provided ; and the commissioners shall thereupon and within one hundred and twenty days after their organization cause a suitable book of subscription to the capital stock of such corporation, to be opened pursuant to due public notice at a banking office in such county or city. A failure by any corporation heretofore or hereafter organized under this article to complete its railway within the time limited in and by its certificate of incorporation shall only work a forfeiture of the franchises of such corporation with respect to that portion of its route which such corporation shall

have failed to complete, and shall not affect the rights and franchises of such corporation to construct and operate such part of its railway which it shall have completed within the term prescribed by its certificate of incorporation, or as to which the time for completion shall not have expired, notwithstanding any thing to the contrary in its certificate of incorporation.

§ 127. **Organization.**—Whenever the whole capital stock of such corporation or an amount of such capital stock proportioned to the part of such railway directed by the commissioners to be constructed, shall have been subscribed by not less than fifteen persons, and the fixed percentage of such subscriptions shall have been paid, in cash, the commissioners shall, by written or printed notice of ten days, served personally or by mail, call a meeting of such subscribers for organization, and appoint the inspectors of election to serve thereat. At such meeting, or at any subsequent one to which the same may be adjourned, a majority in number and amount of such subscribers may elect persons, of a number to be theretofore determined by the commissioners not less than nine, who shall be directors for one year of the corporation formed for the purposes of constructing and operating such railway.

§ 128. **Commissioners to deliver certificate ; affidavit of directors.**—Within ten days after the election of such directors the commissioners shall deliver to them a certificate in duplicate, verified by the oath of three commissioners, before a justice of the supreme court, setting forth the certificate of incorporation and the organization of the corporation for the purposes therein mentioned, and within five days after the reception by them of such certificates, three of the directors so elected shall make affidavit in duplicate that the full amount of stock has been subscribed in good faith to construct, maintain and operate the railway or railways in such certificate of incorporation mentioned, and such directors shall file such affidavits and certificate in the office of the secretary of state, and a duplicate of the same in the office of the clerk of the county wherein such railway shall be located ; and thereupon the persons who have so subscribed such certificate of incorporation and all persons who shall become stockholders in such corporation shall be a corporation by the name specified in such certificate, and be subject to the duties, liabilities and restrictions of such corporations.

§ 129. **Powers.**—Every such corporation shall have power, in addition to the powers conferred by the general and stock corpora-

tion laws and by subdivisions two, five and seven of section eight of this chapter :

1. To take and convey persons and property on their railroad by the power or force of steam or by any motor other than animal power, and to receive compensation therefor.

2. To enter upon and underneath the several streets, avenues and public places and lands designated by the commissioners, and enter into and upon the soil of the same, to construct, maintain, operate and use in accordance with the plan adopted by the commissioners, a railway upon the route or routes and to the points decided upon and to secure the necessary foundations and erect the columns, piers and other structures which may be required to secure safety and stability in the construction and maintenance of the railways constructed upon such plan and for operating the same ; and to make such excavations and openings along the route through which such railway shall be constructed as shall be necessary from time to time. In all cases the surface of the streets around such foundations, piers and columns shall be restored to the condition in which they were before such excavations were made, as near as may be, and any interference with or change in the water mains, or in the sewers or lamp posts, except such changes as may be made with the concurrence of the proper department or authority shall be avoided ; and the use of the streets, avenues, places and lands designated by the commissioners and the right of way through the same for the purpose of a railway, as herein authorized, shall be considered and is hereby declared to be a public use, consistent with the uses for which the roads, streets, avenues and public places are publicly held. No such corporation shall have the right to acquire the use or occupancy of public parks or squares in any such city or county, or the use or occupancy of any of the streets or avenues, except such as may have been designated for the route or routes of such railway, and except such temporary privileges as the proper authorities may grant to such corporations to facilitate such construction, and no such railway shall be constructed across the track of any steam railway now in actual operation at the grade thereof, nor shall any piers or supports for any elevated railway be erected upon a railway track now actually in use in any street or avenue ; and no such corporation shall construct a street surface railroad to run in whole or in part upon the surface of any street or highway under the provisions of this article.

§ 130. **Crossing of horse railroad track.**—Whenever the route selected by the commissioners for the construction of such railway

shall intersect, cross or coincide with any horse railway track occupying the surface of the street or avenues, such railway corporation is hereby authorized to remove, for the purpose of constructing its road, the tracks of such horse railway; but the same shall be done in such manner as to interfere as little as possible with their practical operation or working, and upon the construction of such railway, where such removals or changes have been made, the same shall be restored as near as may be to the condition in which they were previous to the construction of such railroad. All such removals and restorations shall be made at the proper cost and charges of such corporation, but no authority is herein given to any such corporation to use the tracks of any horse railway.

§ 131. Where route coincides with another route.—Whenever the route or routes determined upon by the commissioners coincide with the route or routes covered by the charter of an existing corporation, formed for the purpose of constructing and operating such a railway, and it has not forfeited its charter or failed to comply with the provisions thereof, requiring the construction of a road or roads within the time therein prescribed, such corporation shall have the like power to construct and operate such railway upon the fulfillment of the like requirements and conditions imposed by the commissioners as a corporation specially formed under this article, and the commissioners may fix and determine the route or routes by which any elevated steam railway now in actual operation may connect with other steam railways or the depots thereof, or with steam ferries, upon making compensation therefor, and in case such corporations can not agree with the owners of such steam railways, depots or ferries upon the amount of such compensation, and such owners may be entitled to compensation therefor, the amount of such compensation shall be ascertained and paid in the manner prescribed in the condemnation law, and upon fulfillment by such elevated railway corporation, so far as it relates to such connection, of the requirements and conditions imposed by this article, it shall possess all the powers conferred by section 129 of this article, and when any connecting route or routes shall be so designated, such elevated railway corporation may construct such connection with all the rights and with like effect as though the same had been part of the original route of such railway. [*Thus amended by L. 1892, chap. 676.*]

§ 132. Commissioners to transfer plans, etc.—Within one month after such corporation shall have been formed and organized in the manner hereinbefore provided, the commissioners

shall transfer and deliver to the corporation all plans, specifications, drawings, maps, books and papers in their possession, and they shall, within the like period of one month after the organization of such corporation, cause to be paid to the treasurer thereof all money collected under the provisions of this article, after deducting therefrom the necessary expenses incurred by the commissioners and the amounts due to them for their salaries.

**§ 133. Commissioners to file report ; confirmation thereof.**—The commissioners shall within one hundred and forty days after their appointment, make a report to a special term of the supreme court of the department in which such railway may be located, of the amount of the pecuniary damage arising from the diminution of value of each parcel of property bounded on that portion of the street or streets, highway or highways, upon which it is proposed to construct such railway or railways, which will be caused by the construction, maintenance and operation thereof. The name and place of residence of the owner or owners of each parcel shall be stated if the same are known, or can be ascertained, and if not known the name of the person or persons appearing by the certificate of the clerk or register of the county, to have the title thereto from the records in his office, and a specific description of each parcel of property with reasonable certainty. The testimony, if any, taken by the commissioners as to the amount of such damage, shall accompany their report. Within thirty days after filing and recording its certificate of incorporation, the corporation authorized to construct and operate such railway or railways shall move to confirm such report by giving notice of such motion to the property owners in the manner in which notice of the time and place of hearing before the commissioners is required by section 125 to be given, and if the corporation fails to so move, any property owner may make the motion ; and thereafter the proceedings shall be conducted in the manner prescribed in the condemnation law. Before constructing and operating its railway in front of any real property bounded upon any street, avenue or public place wherein the corporation is authorized by the certificate and report of the commissioners to construct and operate its road, such corporation shall pay to the owner of the real property the damages sustained or which will be sustained by him in consequence thereof, as finally fixed and ascertained, and the costs allowed him, if any, and the court may direct that such damages be paid out of the moneys deposited pursuant to the provisions of section 125, or in case negotiable securities shall have



been deposited in lieu of money, that so much of such securities shall be sold as may be necessary to raise the amount required to be paid to such owner for damages and costs if any. If a bond shall have been executed in lieu of such deposit, the court may order the sureties in such bond to pay the damages so fixed and ascertained, and in default thereof may cause them to be proceeded against and punished as for a contempt of court. [*Thus amended by L. 1892, chap. 676.*]

§ 134. **Pay of commissioners.**—Each of the commissioners shall be paid for his services at the rate of ten dollars per day for each day of actual service as such commissioner, and all expenses necessarily incurred by him in the discharge of his duties, to be paid by such corporation, but if a sufficient amount of capital stock shall not be subscribed within one year after the appointment of such commissioners to authorize the formation of such corporation, the commissioners shall receive no salary, and shall cause to be returned to the subscribers for such stock the amounts paid in by them, after deducting therefrom the necessary expenses incurred by the commissioners, but the time, if any, unavoidably consumed by the pendency of legal proceedings shall not be deemed a part of any period of time limited by this article.

§ 135. **Quorum; term of office; removal; vacancies in board of commissioners.**—A majority of the members of any board of commissioners appointed under this article shall be a quorum for the transaction of any business or the performance of any duty or function, or the exercise of any power, conferred or enjoined upon them. Any commissioner may be removed for cause at any time by the power appointing him, but no commissioner shall be removed without due notice and an opportunity to be heard in defense; and no commissioner thus removed is, or shall be eligible to be again appointed to the office of commissioner. In case of the death, resignation or removal from office of any commissioner the vacancy shall be filled by the power appointing him, within thirty days after such removal, or within thirty days after notice in writing to such appointing power given by some member of the board, or by the corporation hereinafter mentioned, of such death or resignation, and a certificate of every such appointment shall be filed as hereinbefore required. Except as otherwise provided by law, the terms of office of the commissioners shall determine and expire with the performance of their functions as herein above prescribed.

§ 136. Abandonment or change of route ; new commissioners ; their powers and proceedings.—Any corporation heretofore organized or hereafter to be organized under this article, its successor or assigns, which shall have constructed or put in operation a railway upon a part and not upon the whole of the route fixed, determined and located for such railway by a board of commissioners, may at any time apply for authority to abandon any portion of the route upon which the railway shall not have been theretofore constructed or shall not then be in operation, with or without a change and relocation of such portion, and with or without extension of the portion not abandoned, or of any part thereof. Such application shall be made by petition in writing, addressed by such corporation to the board of supervisors of the county in which such portion of the route so desired to be changed or abandoned shall be situated, which is not within the limits of any city, or if such route, or any part thereof, shall be within the limits of a city, to the mayor of the city, for the route or portion thereof within such city. Five commissioners may be appointed pursuant to such an application as hereinafter provided, who shall be residents of the county or city and who shall have full power as herein provided. When such application is made by a corporation heretofore organized such commissioners may be appointed within thirty days after presentation of the same by such board of supervisors, or, as the case may be, by such mayor. When such application is made by a corporation hereafter to be organized under this article, such board of supervisors, or, as the case may be such mayor, may within thirty days after presentation of such application, indorse thereon their or his approval and direction that it may be presented to the supreme court in the manner provided in section 120 of this article, and such court may thereupon appoint such commissioners. Within ten days after his appointment each commissioner so appointed shall take, subscribe and file the oath and give and file the bond prescribed by section 121 of this article ; and if any one so appointed shall not comply with this requirement, he shall be deemed to have declined to accept such appointment, and to have made a vacancy which the appointing power shall fill by another appointment as herein\* provided. Within fifteen days after such appointments shall have been so made, the commissioners shall meet at some convenient place in such county and complete their organization as a board with appropriate officers. Such board shall have all the authority conferred by law upon commissioners appointed, or an-

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\* So in the original.

thorized to be appointed under this article. Before proceeding to hear the application of the corporation, the board shall give such public notice as it may deem most proper and effective of the time and place of the hearing. Within thirty days after completing their organization such board shall hear the application of the corporation, and all parties who may be interested therein, and within sixty days after their organization they shall determine whether any part of such route should be authorized to be abandoned, or should be changed and relocated with or without extension or extensions. If the board shall determine that no abandonment of any part of the route should be allowed, and that no change and relocation of any part thereof should be effected, and that no extension should be made, the board shall dismiss the application. If the board shall determine that an abandonment of any portion of the route should be allowed, or that any change in or extension thereof should be made, the board shall proceed to authorize and require the same upon such conditions as to the board shall seem proper, and with or without extension of the remainder of the route or of any part thereof, by fixing, determining and locating the route or routes of the extension or extensions, if any, and by directing the abandonment of the part of the route theretofore located, but by the board allowed to be abandoned, if any, and by fixing, determining and relocating the part of the route theretofore located, but by the board changed, if any; and the board shall cause to be made in duplicate a survey and map of the route as so changed and fixed, determined and located. Neither such corporation nor any assign or successor thereof shall thereafter have any authority, by reason of any thing done under this article to operate or construct any railway upon any portion of the route by the board so required to be abandoned. The board shall also fix and determine the time within which the railway by it authorized and required upon any portion of the route so changed, shall be reconstructed and ready for operation. If the railway on any portion of the route not by the board changed or allowed to be abandoned, shall not have been theretofore constructed and made ready for operation, the board may extend, and fix and determine anew the time within which such railway shall be completed, but such extension of time shall not be for a longer period than that originally allowed by law for the completion thereof. If the board shall have determined that any portion of the route theretofore located should be allowed to be abandoned, with or without a change or relocation thereof or any part thereof, and with or without extension, or if

the board shall have extended the time within which such railway shall be completed, the board shall make a report in writing in accordance with the determination so made, describing the portion of the route, if any there be, as so fixed, determined and located anew, and the part, if any there be, of the route allowed to be abandoned, and stating the period of time, if any, by the board fixed and determined within which such corporation shall construct and complete the railway theretofore authorized or by it authorized to be constructed, and prescribing that a failure by the corporation, its successors or assigns, to complete it within the time, if any so limited, shall work a forfeiture to the supervisors of the county if no part of the road is within a city, or in any city, to such city, of the rights and franchises of such corporation with respect to that portion of the route so fixed, determined and located anew, and with respect to the then authorized extension or extensions, if any there be of said route, upon which a railway shall not be constructed within the time so limited; but the time, if any, unavoidably consumed by the pendency of legal proceedings, shall not be deemed a part of any period of time limited in this article, and any recital of any forfeiture of any of the rights or franchises prescribed by any commissioners heretofore appointed, to be to the mayor, aldermen and commonalty of the city of New York, shall be as effectual for any and all purposes as if such forfeiture had been in terms recited to be to the board of supervisors of the county of New York. Such report shall be signed in duplicate by at least a majority of the then members of the board, and there shall be thereto annexed the survey and map as hereinabove directed, showing the line and location of each and all the routes, with or without the extension or extensions, as fixed, determined and located, and showing also the parts or part, if any there shall be, of the route or routes as theretofore fixed, determined and located, but by the board allowed to be abandoned. Within ten days after so signing such report the board shall cause the same to be filed in the office of the secretary of state, and the duplicate thereof in the office of the clerk of the county wherein such railway shall be located; and thereupon the corporation making such application, its successors or assigns, is and shall be authorized to construct, maintain and operate a steam railway for the transportation of passengers, mail and freight, upon the route or routes so fixed, determined and located, and in said report described, but the construction or operation of a railway upon any new location or selection of route is not and shall not be thus authorized ex-

cept upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railway be first obtained, or in case the consent of such property owners can not be obtained, that the determination of three commissioners, to be upon application appointed by the general term of the supreme court, in the district in which such railroad is proposed to be constructed, be given after a hearing of all parties interested that such railway ought to be constructed or operated, which determination, confirmed by the court, may be taken in lieu of the consent of the property owners. Such corporation is and the successors and assigns thereof shall be authorized to maintain and operate all the railroads and the appurtenances thereof by it or them theretofore constructed upon any portion of a route or routes which shall have been located by commissioners under this article, and to complete within the time in and by such report so extended, fixed and determined anew, and thereafter to maintain and operate, the railway and the appurtenances, upon so much of the route or routes theretofore fixed, determined and located as shall not have been so authorized and required to be abandoned, and with the same rights and effect, in all respects, as if such extended period of time had been originally fixed and determined, and in the original certificate of incorporation of such corporation recited, for completing such railway and putting it in operation. The other terms and conditions in and by such certificate mentioned and prescribed, except as the same are hereinbefore modified or may be modified by the board as hereinabove authorized, shall apply to the railway herein authorized to be constructed and operated upon the route or routes as so changed, fixed, determined and located, with the same force and effect as if such route or routes, as finally so changed and located, had been in and by such articles or certificates themselves prescribed. If a new location or extension of routes shall be fixed and determined by commissioners who shall have been appointed by the court pursuant to this section, they shall also ascertain and determine the aggregate pecuniary damages arising from the diminution of value of the property bounded on that portion of the street or highway upon the line of such new location or extension and of each parcel of real property so bounded, and their proceedings thereupon shall be conducted in the same manner and upon the like notice as the proceedings for that purpose before the commissioners specified in

section 125, and shall make to the supreme court the report required by section 133, and thereupon the same proceedings shall be had as are provided for in such last named section. Each commissioner shall be paid for his services at the rate of ten dollars per day for each day of actual services as such commissioner, and all reasonable expenses incurred by him in or about any of the matters referred to such board, to be paid by the corporation making the application so heard and determined. No corporation shall be authorized under this section to extend, abandon or change the location of its route, or any part thereof, where the greater portion of the route or routes is or shall be in that portion of the city of New York south or west of Harlem river, or of any route or part thereof in the city of Brooklyn or county of Kings, or to construct, extend, abandon or change the location of any railway or route for a railway over, under, through or across any street, avenues, place or lands south of One Hundred and Twenty-eighth street or west of Third avenue in that portion of the city of New York south or west of Harlem river, or where a railway might not by law be constructed, or was not by law authorized to be by a board of commissioners located on the 5th day of June, 1888. [*Thus amended by L. 1892, chap. 676.*]

§ 137. Increased deposit, when and how required.—In case any of the securities deposited in lieu of money as provided in section one hundred and twenty-five, shall in the opinion of the county treasurer or trust company with whom they may be deposited, fall below their actual value at the time of deposit, the county treasurer or trust company shall call upon such railway corporation to substitute therefor other securities equivalent at their par or market value to the amount in lieu of which the securities for which they are to be substituted were deposited, and in case such other securities shall not be furnished, the county treasurer or trust company shall call upon such corporation to furnish as a substitute, and it shall so furnish an amount of money equal to the amount in lieu of which the securities first above referred to were deposited.

§ 138. Trains to come to full stop, etc.—All trains upon elevated railroads shall come to a full stop before any passenger shall be permitted to leave such trains; and no train on such railroad shall be permitted to start until every passenger desiring to depart therefrom shall have left the train, provided such passenger has manifested his or her intention to so depart by moving toward or upon the platform of any car; nor until every passenger upon the



platform or station at which such train has stopped, and desiring to board or enter such cars, shall have actually boarded or entered the same, but no person shall be permitted to enter or board any train after due notice from an authorized employee of such corporation that such train is full and that no more passengers can be then received.

§ 139. **Gates.**—Every car used for passengers upon elevated railroads shall have gates at the outer edges of its platforms, so constructed that they shall, when opened, be caught and held open by such catch or spring as will prevent their swinging and obstructing passengers in their egress from or ingress to such cars; and every such gate shall be kept closed while the car is in motion; and when the car has stopped and a gate has been opened, the car shall not start until such gate is again firmly closed.

§ 140. **Penalty for violation of this article.**—Any elevated railroad corporation that shall fail or neglect to comply with or enforce the provisions of this article, shall upon the petition of any citizen to any court of record, and upon due notice to such corporation, and proof of such failure or neglect, pay to the clerk of the court wherein such petition was made, a sum not less than two hundred and fifty nor more than one thousand dollars, as such court may direct by its order. The sum so ordered to be paid shall be paid by such clerk of the court to the county treasurer, and shall be distributed by such treasurer equally among the public hospitals of the county in which the proceeding is had, at such time, as the board of supervisors or board of aldermen in any such county shall direct. Nothing in this section shall relieve elevated railroad corporations from any liability under which they may now be held by existing laws for damages to persons or property. [*Thus amended by L. 1892, chap. 676.*]

§ 141. **Sections to be printed and posted.**—The officers and board of directors of such railroad corporations shall cause copies of sections one hundred and thirty-eight, one hundred and thirty-nine and one hundred and forty to be printed conspicuously and posted in the depots or stations and in each car belonging to them.

§ 142. **Extension of time.**—The time within which any act is required to be done under this article may be extended by the supreme court for good cause shown, for one year, and but one extension will be granted. Any company that has heretofore constructed or is now operating an elevated railroad shall be deemed to have been duly incorporated notwithstanding any failure on the part

of commissioners to insert in its articles of association provisions complying with statutory requirements relative to such articles. [*This section added by L. 1892, chap. 676.*]

## ARTICLE VI.

### THE BOARD OF RAILROAD COMMISSIONERS.

**SECTION 150.** Appointment and term of office of railroad commissioners.

151. Suspension from office.

152. Secretary and marshal of board.

153. Additional officers; their duties.

154. Oath of office; eligibility of officers of board.

155. Principal office and meetings of board.

156. Quorum of board.

157. General powers and duties of board.

158. Reports of railroad corporations.

159. Investigation of accidents.

160. Recommendations of board where law has been violated.

161. Recommendations of board when repairs or other changes are necessary.

162. Legal effect of recommendation and action of the board.

163. Corporation must furnish necessary information.

164. Attendance of witnesses and their fees.

165. Fees to be charged and collected by the board.

166. Annual report of board.

167. Certified copies of papers filed to be evidence.

168. Acts prohibited.

169. Salaries and expenses of members and officers of the board.

170. Total annual expense to be borne by railroads.

171. Application of this article.

[*Thus amended by L. 1892, chap. 676.*]

§ 150. Appointment and term of office of railroad commissioners.—There shall continue to be a board of railroad commissioners, consisting of three competent persons, one of whom shall be experienced in railroad business, appointed by the governor, by and with the advice and consent of the senate, each of whom shall hold office for the term of five years, and until his successor shall have been appointed and shall have qualified. A commissioner shall in like manner be appointed upon the expiration of the term of any commissioner; and when any vacancy shall occur in the office of any commissioner, a commissioner shall in like manner be appointed for the residue of the term. If the senate shall not be in session when the vacancy occurs, the governor shall appoint a commissioner to fill the vacancy, subject to the approval of the senate when convened.

§ 151. Suspension from office.—Any commissioner may be sus-

pended from office by the governor upon written charges preferred. The governor shall report such suspension and the reasons therefor to the senate at the beginning of the next ensuing session, and if a majority of the senate shall approve the action of the governor, such commissioner shall be removed from office and his office become vacant.

§ 152. The board shall have a secretary and a marshal who shall be appointed by it and serve during its pleasure. The secretary shall keep a full and faithful record of the proceedings of the board, and be the custodian of its records, and file and preserve at its general office all books, maps, documents and papers intrusted to his care, and be responsible to the board for the same. Under the direction of the board he shall be its chief executive officer, shall have general charge of its office, superintend its clerical business, conduct its correspondence, be the medium of its decisions, recommendations, orders and bequests, prepare for service such papers and notices as may be required of him by the commissioners, and perform such other duties as the board may prescribe, and he shall have power to administer oaths in all cases pertaining to the duties of his office. He shall have the power to designate from time to time one of the clerks appointed by the board to act as assistant secretary during his absence from the county of Albany, and the clerk so designated for the time designated shall within the county of Albany only, possess the powers conferred by this section upon the secretary of the board. [*Thus amended by L. 1892, chap. 534.*]

§ 153. The board may also appoint, to serve during its pleasure, the following officers or any of them: An accountant, who shall be thoroughly skilled in railroad accounting, and who shall, under the direction of the board, make examinations of the books and accounts of railroad and other corporations, and supervise the quarterly and annual reports made by railroad corporations to the board, and collect and compile railroad statistics, and perform such other duties as the board may prescribe. An inspector, who shall be a civil engineer, skilled in railroad affairs, who shall make such inspections of railroads and other matters relating thereto, as directed by the board, and report to it. Such additional clerical force as may be necessary for the transaction of its business. The board may also employ engineers, accountants and other experts whose services they may deem to be of temporary importance in conducting any investigation authorized by law. [*Thus amended by L. 1892, chap. 534.*]

§ 154. Oath of office ; eligibility of officers of board.—Each commissioner, and every person appointed to office by the board, shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office. No person shall be appointed to or hold the office of commissioner or be appointed by the board to or hold any office, place or position under it who holds any official relation to any railroad corporation, or owns stock or bonds therein, or who is in any manner pecuniarily interested in any firm or corporation having business relations with any such corporation.

§ 155. Principal office and meetings of board.—The principal office of the board shall be at the city of Albany, in rooms designated by the capitol commissioners, and it may have a branch office at the city of New York, and one at the city of Buffalo; and the board, or a quorum thereof, shall meet at least once a month during the year at the office in Albany. The board shall have an official seal, to be prepared by the secretary of state in accordance with law, and its offices shall be supplied with necessary postage, stationery, office furniture and appliances, to be paid for as other expenses authorized by this article, and it shall have prepared for it by the state the necessary books, maps and statistics, incidentally necessary for the discharge of its duties.

§ 156. Two of the commissioners shall constitute a quorum for the transaction of any business, or the performance of any duty of the board and may hold meetings thereof at any time or place within the state. All examinations or investigations made by the board may be held and taken by and before any one of the commissioners or the secretary of the board, by the order of the board, and the proceedings and decisions of such single commissioner or secretary, shall be deemed to be the proceedings and decisions of the board, when approved and confirmed by it. [*Thus amended by L. 1892, chap. 534.*]

§ 157. General powers and duties of board.—The board shall have power to administer oaths in all matters relating to its duties, so far as necessary to enable it to discharge such duties, shall have general supervision of all railroads and shall examine the same and keep informed as to their condition, and the manner in which they are operated for the security and accommodation of the public and their compliance with the provisions of their charters and of law. The commissioners or either of them in the performance of their official duties may enter and remain during business hours in the cars, offices and depots, and upon the railroads of any railroad cor-

poration within the state, or doing business therein; and may examine the books and affairs of any such corporation and compel the production of books and papers or copies thereof, and the board may cause to be subpoenaed witnesses, and if a person duly subpoenaed fails to obey such subpoena without reasonable cause, or shall without such cause refuse to be examined, or to answer a legal or pertinent question, or to produce a book or paper which he is directed by subpoena to bring, or to subscribe his deposition after it has been correctly reduced to writing, the board may take such proceedings as are authorized by the Code of Civil Procedure upon the like failure or refusal of a witness subpoenaed to attend the trial of a civil action before a court of record or a referee appointed by such court. The board shall also take testimony upon, and have a hearing for and against any proposed change of the law relating to any railroad, or of the general railroad law, if requested to do so by the legislature, or by the committee on railroads of the senate or the assembly, or by the governor, and may take such testimony and have such a hearing when requested to do so by any railroad corporation, or incorporated organization representing agricultural or commercial interests in the state, and shall report their conclusions in writing to the legislature, committee, governor, corporation or organization making such request; and shall recommend and draft such bills as will in its judgment protect the people's interest in and upon the railroads of this state.

§ 158. **Reports of railroad corporations.**—The board shall prescribe the form of the report required by the railroad law to be made by railroad corporations, and may from time to time make such changes and additions in such form, giving to the corporations six months notice before the expiration of any fiscal year, of any changes or additions which would require any alteration in the method or form of keeping their accounts, and on or before September fifteenth in each year, shall furnish a blank form for such report. When the report of any corporation is defective, or believed to be erroneous, the board shall notify the corporation to amend the same within thirty days. The originals of the reports, subscribed and sworn to as prescribed by law, shall be preserved in the office of the board.

§ 159. **Investigation of accidents.**—The board shall investigate the cause of any accident on any railroad resulting in loss of life or injury to persons, which in their judgment shall require investigation, and include the result thereof in their annual report to the leg-

islature. Before making any such examination or investigation, or any investigation or examination under this article, reasonable notice shall be given to the corporation, person or persons conducting and managing such railroad of the time and place of commencing the same. The general superintendent or manager of every railroad shall inform the board of any such accident immediately after its occurrence. If the examination of the books and affairs of the corporation, or of witnesses in its employ, shall be necessary in the course of any examination or investigation into its affairs, the board, or a commissioner thereof, shall sit for such purpose in the city or town of this state where the principal business office of the corporation is situated if requested so to do by the corporation; but the board may require copies of books and papers, or abstracts thereof, to be sent to them to any part of this state.

§ 160. **Recommendations of board, where law has been violated.**—If, in the judgment of the board, it shall appear that any railroad corporation has violated any constitutional provision or law, or neglects in any respect to comply with the terms of the law by which it was created, or unjustly discriminates in its charges for services, or usurps any authority not granted by law, or refuses to comply with the provisions of any law, or with any recommendation of the board, it shall give notice thereof in writing to the corporation, and if the violation, neglect or refusal is continued after such notice, the board may forthwith present the matter to the attorney-general, who shall take such proceedings thereon as may be necessary for the protection of the public interests.

§ 161. **Recommendations of board, when repairs or other changes are necessary.**—If in the judgment of the board, after a careful personal examination of the same, it shall appear that repairs are necessary upon any railroad in the state, or that any addition to the rolling stock, or any addition to or change of the station or station-houses, or that additional terminal facilities shall be afforded, or that any change of the rates of fare for transporting freight or passengers or in the mode of operating the road or conducting its business, is reasonable and expedient in order to promote the security, convenience and accommodation of the public, the board shall give notice and information in writing to the corporation of the improvements and changes which they deem to be proper, and shall give such corporation an opportunity for a full hearing thereof, and if the corporation refuses or neglects to make such repairs, improvements and changes, within a reasonable time after such information



and hearing, and fails to satisfy the board that no action is required to be taken by it, the board shall fix the time within which the same shall be made, which time it may extend. It shall be the duty of the corporation, person or persons owning or operating the railroad to comply with such decisions and recommendations of the board as are just and reasonable. If it fails to do so the board shall present the facts in the case to the attorney-general for his consideration and action, and shall also report them in its annual or in a special report to the legislature.

§ 162. **Legal effect of recommendations and action of the board.**—No examination, request or advice of the board, nor any investigation or report made by it, shall have the effect to impair in any manner or degree the legal rights, duties or obligations of any railroad corporation, or its legal liabilities for the consequence of its acts, or of the neglect or mismanagement of any of its agents or employes. The supreme court at special term shall have power in its discretion, in all cases of decisions and recommendations by the board which are just and reasonable to compel compliance therewith by mandamus, subject to appeal to the general term and the court of appeals, and upon such appeal, the general term and the court of appeals may review and reverse upon the facts as well as the law. [*Thus amended by L. 1892, chap. 676.*]

§ 163. **Corporations must furnish necessary information.**—Every railroad corporation shall, on request, furnish the board any necessary information required by them concerning the rates of fare for transporting freight and passengers upon its road and other roads with which its business is connected, and the condition, management and operation of its road, and shall, on request, furnish to the board copies of all contracts and agreements, leases or other engagements entered into by it with any person or corporation. The commissioners shall not give publicity to such information, contracts, agreements, leases or other engagements, if, in their judgment, the public interests do not require it, or the welfare and prosperity of railroad corporations of the state might be thereby injuriously affected.

§ 164. **Attendance of witnesses and their fees.**—All subpoenas shall be issued by the president of the board, or by any two members thereof, and may be served by any person of full age authorized by the board to serve the same. The fees of witnesses before the board shall be two dollars for each days attendance, and five cents for every mile of travel by the nearest generally traveled route in

going to and returning from the place where the attendance of the witness is required, and the fees shall be audited and paid by the comptroller on the certificate of the secretary of the commission.

**§ 165. Fees to be charged and collected by the board.**—The board shall charge and collect the following fees: For copies of papers and records not required to be certified, or otherwise authenticated by the board, ten cents for each folio of one hundred words; for certified copies of official documents filed in its office, fifteen cents for each folio, and one dollar for every certificate under seal affixed thereto; for each certified copy of the quarterly report made by a railroad corporation to the board, fifty cents; for each certified copy of the annual report of the board, one dollar and fifty cents; for certified copies of evidence and proceedings before the board, fifteen cents for each folio. No fees shall be charged or collected for copies of papers, records or official documents, furnished to public officers for use in their official capacity, or for the annual reports of the board in the ordinary course of distribution. All fees charged and collected by the board belong to the people of the state, and shall be paid quarterly, accompanied with a detailed statement thereof into the treasury of the state to the credit of the general fund.

**§ 166. Annual report of board.**—The board shall make an annual report on or before the second Monday in January in each year, which shall contain :

1. A record of their meetings and an abstract of their proceedings during the preceding year.

2. The result of any examination or investigation conducted by them.

3. Such statements, facts and explanations as will disclose the actual workings of the system of railroad transportation in its bearing upon the business and prosperity of the state, and such suggestions as to the general railroad policy of the state, of the amendment of its laws, or the condition, affairs or conduct of any railroad corporation, as may seem to them appropriate.

4. Drafts of all bills submitted by them to the legislature and the reasons therefor.

5. Such tables and abstracts of all the reports of all the railroad corporations as they may deem expedient.

6. A statement in detail of the traveling expenses and disbursements of the commissioners, their clerks, marshal and experts.

Five hundred copies of the report with the reports of the railroad

corporations of the state, in addition to the regular number prescribed by law, shall be printed as a public document of the state, bound in cloth for the use of the commissioners, and to be distributed by them in their discretion to railroad corporations and other persons interested therein.

§ 167. **Certified copies of papers filed to be evidence.**—Copies of all official documents filed or deposited according to law in the office of the board, certified by a member of the board or the secretary thereof to be true copies of the originals under the official seal of the board, shall be evidence in like manner as the originals.

§ 168. **Acts prohibited.**—No railroad commissioner shall, directly or indirectly, solicit or request from, or recommend to any railroad corporation, or any officer, attorney or agent thereof, the appointment of any person to any place or position nor shall any railroad corporation, its attorney or agent, offer any place, appointment or position or other consideration to such commissioners, or either of them, nor to any clerk or employe of the commissioners or of the board; neither shall the commissioners or either of them nor their secretary, clerks, agents, employes or experts, accept, receive or request any pass from any railroad in this state, for themselves or for any other person, or any present, gift or gratuity of any kind from any railroad corporation; and the request of acceptance by them, or either of them, of any such place or position, pass, presents, gifts or other gratuity shall work a forfeiture of the office of the commissioner or commissioners, secretary, clerk or clerks, agent or agents, employe or employes, expert or experts, requesting or accepting the same.

§ 169. The annual salary of each commissioner shall be eight thousand dollars; of the secretary six thousand dollars; of the marshal fifteen hundred dollars, of the accountant and of the inspector such sum as the board may fix, not exceeding three thousand dollars each; of the clerical force such sums respectively as the board may fix. In the discharge of their official duties, the commissioners, their officers, clerks and all experts and agents whose services are deemed temporarily of importance, shall be transported over the railroads in this state free of charge upon passes signed by the secretary of state and the commissioners shall have reimbursed to them the necessary traveling expenses and disbursements of themselves, their officers, clerks and experts, not exceeding in the aggregate five hundred dollars per month. All salaries and disbursements shall be audited and allowed by the comptroller and paid monthly by the state treasurer

upon the order of the comptroller out of the funds provided therefor. [*Thus amended by L. 1892, chap. 534.*]

§ 170. The total annual expenses of the board authorized by law, excepting only rent of offices and the cost of printing and binding the annual reports of the board as provided by law, shall not exceed fifty thousand dollars; and shall be borne by the several corporations owning or operating railroads according to their means, to be apportioned by the comptroller who, on or before July first in each year, shall assess upon each of such corporations its proportion of such expenses, one-half in proportion to its net income for the fiscal year next preceding that in which the assessment is made, and one-half in proportion to the length of its main road and branches, except that each corporation whose line of road lies partly within and partly without the state, shall in respect of its net income be assessed on a part bearing the same proportion to its whole net income that the line of its road within the state bears to the whole length of road, and in respect of its main road and branches shall be assessed only on that part which lies within the state. Such assessment shall be collected in the manner provided by law for the collection of taxes upon corporations. [*Thus amended by L. 1892, chap. 534.*]

§ 171. Application of this article.—The provisions of this article shall apply to all railroads within the state, and the corporations, receivers, trustees, directors or others, owning or operating the same or any of them, and to all sleeping and drawing-room car corporations, and to all other associations, partnerships or corporations engaged in transporting passengers or freight upon any such railroad as lessee or otherwise.

[*Sections 180 to 183, both inclusive, were repealed by L. 1892, chap. 676.*]



# **THE TRANSPORTATION CORPORATIONS LAW**

**BEING CHAPTER 566 OF THE LAWS OF 1890 AS AMENDED BY CHAPTER 617 OF THE LAWS OF 1892.**

**AN ACT in relation to transportation corporations, excepting railroads, constituting chapter forty of the general laws.**

## **CHAPTER XL OF THE GENERAL LAWS.**

### **THE TRANSPORTATION CORPORATIONS LAW.**

- ARTICLE**
- 1. Ferry corporations (§§ 1-6).**
  - 2. Navigation corporations (§§ 10-13).**
  - 3. Stage coach corporations (§§ 20-23).**
  - 4. Tramway corporations (§§ 30-33).**
  - 5. Pipe-line corporations (§§ 40-54).**
  - 6. Gas and electric light corporations (§§ 60-71).**
  - 7. Water-works corporations (§§ 80-85).**
  - 8. Telegraph and telephone corporations (§§ 100-109).**
  - 9. Turnpike, plank-road and bridge corporations (§§ 120-151).**
  - 10. Miscellaneous provisions (§§ 160-163).**

## **ARTICLE I.**

### **FERRY CORPORATIONS.**

- SECTION 1. Short title of chapter.**
- 2. Incorporation of ferry corporations.**
  - 3. Payment of capital stock.**
  - 4. Powers.**
  - 5. Effect of failure to pay in capital stock.**
  - 6. Posting schedule of rates.**

**SECTION 1. Short title of chapter.**—This chapter shall be known as the transportation corporations law.

**§ 2. Incorporation of ferry corporations.**—Three or more persons may become a corporation for conducting and managing a ferry, by executing, acknowledging and filing a certificate, stating the name of the corporation, the places from and to which the ferry established or to be established shall run; the term not exceeding fifty years for which the corporation is to exist, the amount and number of shares of its capital stock; the number of directors



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thereof, not less than three nor more than fifteen, and the names of the directors for the first year.

**§ 3. Half of capital to be paid in before commencing business.**—No ferry corporation shall be authorized to commence business until at least one-half its capital shall have been actually paid in, nor until affidavits of such payment, sworn to by a majority of the directors, shall have been filed, in each of the offices in which the certificate of incorporation is required to be filed.

**§ 4. Powers.**—In addition to the powers conferred by the general and stock corporation laws, any such corporation shall have power to take by grant from any authority entitled by the laws of this state to make such grant, or by assignment, the franchise or right to establish and maintain ferries, at the place specified in the certificate of incorporation, and to hold and exercise such franchise or right and carry on the business appertaining thereto, subject to the rights of the mayor, aldermen and commonalty of the city of New York, or any other municipal corporation, or of the owner or owners of any legally existing ferry, or the vested rights of any other corporation whatever.

**§ 5. Effect of failure to pay in capital stock.**—The capital stock of every such corporation shall all be paid in, one-half thereof within one year and the other half thereof within two years from its incorporation, or such corporation shall be dissolved.

**§ 6. Must post schedule of rates.**—Every corporation operating any ferry in this state, or between this state and any other state, and from or to a city of five hundred thousand inhabitants or over, shall post in a conspicuous and accessible place in each of its ferry-houses, in plain view of the passengers, a schedule plainly printed in the English language, of the rates of ferriage charged thereon and authorized by law to be charged for ferriage over such ferry.

## ARTICLE II

### NAVIGATION CORPORATION.\*

#### SECTION 10. Formation of corporation.

11. Navigation between additional ports.
12. Payment of capital stock.
13. Ferries unauthorized.

**§ 10. Formation of corporation.**—Seven or more persons may become a corporation, for the purpose of building for their own use,

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\* So in the original.

equipping, furnishing, fitting, purchasing, chartering, navigating or owning steam, sail or other boats, ships, vessels or other property to be used in any lawful business, trade, commerce or navigation upon the ocean, or any seas, sounds, lakes or rivers, and for the carriage, transportation or storing of lading, freight, mails, property or passengers thereon by making, signing, acknowledging and filing a certificate, stating the name of the corporation, the specific objects for which it is formed, the waters to be navigated, and in case of ocean steamers, the ports between which such vessels are intended to be navigated, the amount of its capital stock, which shall not be less than twenty thousand nor more than four million dollars, the term of its existence, not to exceed fifty years, the number of shares of which the capital stock shall consist, the number of directors thereof, not less than five nor more than thirteen, the names of the directors for the first year, and the name of the city or town and county in which its principal office is to be situated, the number of shares of stock which each subscriber of the certificate agrees to take, which must in the aggregate equal ten per cent of the capital and at least ten per cent of which must be paid in cash. Such certificate shall have attached thereto as a part thereof, the affidavit of at least three of such directors, to the effect that ten per cent of such capital stock has been in good faith subscribed and at least ten per cent of such subscription has been paid in cash. No railroad corporation shall have, own or hold any stock in any such corporation.

§ 11. **Navigation between additional ports.**—Any such corporation desiring or intending to navigate boats, ships or vessels, upon any other waters, or in case of ocean steamers between any other or additional ports than those named in its original certificate, may from time to time, file a further certificate, in the same manner as is prescribed by law for the filing of the original certificate, in which shall be stated such additional waters or ports upon or between which such corporation desires to navigate vessels, and thereafter such corporation may navigate its vessels upon such waters and between such ports, with the like effect as if they had been named in the original certificate.

§ 12. **Payment of capital stock.**—The capital stock of such corporation shall be paid in, at least one-half thereof, within one year, and the remainder within two years from its incorporation, or the corporation shall be dissolved. Within thirty days after the payment of the last installment, a certificate stating that the whole amount of such capital stock has been paid in shall be made, signed

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and sworn to by the president and a majority of the directors of the corporation, and filed and recorded in the offices where the original certificates of incorporation were filed.

§ 13. **Ferries unauthorized.**—This article shall not authorize the formation of any ferry corporation to ply between the city of New York and any other point.

### ARTICLE III.

#### STAGE COACH CORPORATIONS.

##### SECTION 20. Incorporation.

##### 21. Alteration or extension of route.

##### 22. Powers.

§ 20. **Incorporation.**—Five, or more persons, may become a corporation for the purpose of establishing, maintaining and operating any stage or omnibus route or routes for public use in the conveyance of persons and property elsewhere than in the city of New York, or any stage route or routes already established for a like public use, by making, signing, acknowledging and filing a certificate which shall state the name of the corporation, the number of years it is to continue, the route or routes upon which it is intended to run as near as practicable, the number of the directors thereof, not less than three nor more than five, the names of the directors for the first year, the amount of its capital stock, the place of residence of each subscriber thereto, and the number of shares of stock he agrees to take in such corporation.

§ 21. **Alteration or extension of route.**—The directors may, by a vote of two-thirds of their number, at any time alter or extend the route or routes designated in the certificate of incorporation, upon making, acknowledging, and filing a certificate to that effect, in the offices where the original certificates of incorporation were filed.

§ 22. **Powers.**—In addition to the powers conferred by the general and stock corporation laws, every such corporation shall have power :

1. To take and convey persons and property in stages and omnibuses, and to provide and run the necessary stages and omnibuses upon their route or routes for the public use and to receive compensation therefor.

2. To erect and maintain all necessary and convenient buildings,

fixtures and machinery for the use and accommodation of their passengers and business.

## ARTICLE IV.

### TRAMWAY CORPORATIONS.

#### SECTION 30. Incorporation.

##### 81. Powers.

##### 82. Condemnation of real property

##### 83. Crossings.

§ 30. **Incorporation.**—Thirteen or more persons may become a corporation for constructing, maintaining and operating an elevated tramway, constructed of poles, piers, wires, rods, ropes, bars or chains, for the transportation of freight in suspended buckets, cars or other receptacles, for hire, by making, signing, acknowledging and filing a certificate stating the name of the corporation, the number of years it is to continue, the places from and to which such tramway is to be constructed, maintained and operated, its length as near as may be, the name of each county through or in which it is made or intended to be made, the amount of its capital stock and the number of shares into which it is to be divided, the number of the directors thereof, not less than three, the names and places of residence of the directors for the first year, the place of residence of each subscriber thereto and the number of shares he agrees to take in such corporation.

§ 31. **Powers.**—Every such corporation, in addition to the powers conferred by the general and stock corporation laws, shall have power:

1. To cause such examination and surveys for its proposed tramway, to be made as may be necessary to the selection of the most advantageous route, and for such purpose by its officers and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damages done thereto.

2. To lay out its tramway and to construct the same as hereby provided.

3. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and transaction of its business.

§ 32. **May acquire land by condemnation.**—In case any such corporation is unable to agree for the purchase, use or lease of any real property required for the purposes of its incorporation, it shall have the right to acquire title to the same by condemnation.

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§ 33. Crossings.—Wherever any tramway, constructed by any such corporation, shall cross a railroad, highway, turnpike, plank-road or canal, such tramway shall be so constructed as not to interfere with the free use of such railroad, highway, turnpike, plank-road or canal for the purposes for which they were intended.

## ARTICLE V.

### PIPE LINE CORPORATIONS.

#### SECTION 40. Incorporation.

41. Location of line.
42. Condemnation of real property.
43. Railroad, turnpike, plankroad and highway crossings.
44. Crossings of canals, rivers and creeks.
45. Consent of local authorities.
46. Construction through villages and cities.
47. Over Indian reservations.
48. Over state lands.
49. Additional powers.
50. Use of line to be public; storage; liable as common carriers; rates and charges.
51. Receipts for property; cancellation of vouchers.
52. Monthly statements.
53. Fences, farm crossings and use of line not inclosed.
54. Taxation of property.

§ 40. Incorporation.—Twelve or more persons may become a corporation for constructing and operating for public use, except in the city of New York, lines of pipe for conveying or transporting therein petroleum, gas, liquids or any products or property, or for maintaining and operating any line of pipe already constructed and owned by any corporation, person or persons, except in such city, for the public use, by making, signing, acknowledging and filing a certificate stating the name of the corporation, the number of years it is to continue, the places from and to which it is to be constructed or maintained and operated, its length as near as may be, the name of each county through or into which it is to be constructed; the amount of its capital stock, which shall not be less than fifteen hundred dollars for every mile of pipe constructed or proposed to be constructed, and the number of shares of which it shall consist; the number of directors not less than seven, and the names and places of residence of the directors for the first year, and the place of residence of each subscriber and the number of shares he agrees to take in such corporation, which must in the aggregate equal ten hundred

and fifty dollars for every mile of pipe constructed or proposed to be constructed, and twenty-five per cent of which must be paid in cash. Such certificate shall have indorsed thereon or appended thereto and as a part thereof, an affidavit made by at least three of the directors named therein that at least ten hundred and fifty dollars of stock for every mile of line proposed to be constructed or maintained and operated has been in good faith subscribed, and twenty-five per cent paid in money thereon, and that it is intended in good faith to construct or to maintain and operate the line of pipe mentioned in such certificate, and that such corporation was not projected or formed with the intent or for the purpose of injuring any person or corporation, nor for the purpose of selling or conveying its franchise to any person or corporation, nor for any fraudulent purpose.

§ 41. Location of line.—Every such corporation shall before commencing the construction of its pipe line in any county, or any proceeding for the condemnation of real property, plainly and distinctly mark and designate the line adopted and located by them by a line of stakes consecutively numbered and equally distant, and not more than twenty rods from each other, so that each line can be definitely known and ascertained in all places, and make a map and survey of the route so located and staked out, and shall indicate thereon plainly the points where such route crosses each parcel of land to which they have not acquired title by agreement, and shall cause such map and survey to be certified by the president and engineer, and filed in the office of the clerk of the county into or through which the line so located and mapped passes, and shall give to the owner or occupant, if he is known or can be ascertained, of every parcel of land through which such route passes, the title to which has not been acquired by purchase, written notice of the filing of such map and survey, stating that such route passes over or across such owner's or occupant's lands, and that the route thereof is indicated thereon by such line of stakes. Any occupant or owner of such lands feeling aggrieved by the proposed location, may, within fifteen days after the service of such notice, give ten days written notice to the corporation, by service upon the president, engineer, or any director thereof, and to the owner or occupant of any lands to be affected by the alteration to be proposed by him, of the time and place of an application to be made by him to a special term of the supreme court in the judicial district in which the lands are situated for the appointment of commissioners to relocate such line. If upon



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the hearing the court shall consider that sufficient cause exists therefor, it shall appoint three disinterested persons commissioners to examine the route located and the proposed alteration thereof, and direct the mode of proceeding, who shall report to the court the facts relating thereto and their opinion as to the proposed alteration, and what, if any, alteration should be made in such line, and the court shall thereupon make such order as it shall deem proper in relation to such alteration, and determine the location of such line, and fix and adjust the costs, fees and charges of the commissioners, and the costs and charges of the proceedings, and direct by which party the same shall be paid, and may enforce payment thereof by proceedings as for a contempt of court, for refusal to pay costs directed to be paid by an order of the court, and such order shall be final as to the location of the line upon the lands embraced therein. Such corporation shall not commence the work of constructing or laying its line of pipe, or institute proceedings for the condemnation of real property, in any county, until after the expiration of fifteen days from the service by it of the notice herein required, nor until all applications for a relocation of its line in such county if any are made, have been finally determined.

§ 42. **Condemnation of real property.**—In case such corporation is unable to agree for the purchase of any real estate required for the purposes of its incorporation, and its line of pipe in the county in which such real estate is situated has been finally located, it shall have the right to acquire title thereto by condemnation, but such corporation shall not locate or construct any line of pipe through or under any building, dooryard, lawn, garden or orchard, except by the consent of the owner thereof in writing duly acknowledged, nor through any cemetery or burial ground, nor within one hundred feet of any building, except where such line is authorized by public officers to be laid across or upon any public highway, or where the same is laid across or upon any turnpike or plank road. No pipes shall be laid for the purpose of carrying petroleum, gas or other products or property through or under any of the streets in the cities of this state, unless such corporation shall first obtain the consent of a majority of the property owners on the streets which may be selected for the laying of pipes, and such pipe-line shall be located with all reasonable care and prudence so as to avoid danger from the bursting of the pipes.

§ 43. **Railroad, turnpike, plank-road and highway crossings.**—Whenever any line of pipe of any such corporation shall ne-

cessarily cross any railroad, highway, turnpike or plank-road, such line of pipe shall be made to cross under such railroad, highway, turnpike or plank-road and with the least injury thereto practicable, and unless the right to cross the same shall be acquired by agreement, compensation shall be ascertained and made to the owners thereof, or to the public in case of highways, in the manner prescribed in the condemnation law, but no exclusive title or use shall be so acquired as against any railroad, turnpike or plank-road corporation, nor as against the rights of the people of this state in any public highway, but the rights acquired shall be a common use of the lands in such manner as to be of the least practical injury to such railroad, turnpike or plank-road, consistent with the use thereof by such pipeline corporation, nor shall any such corporation take or use any lands, fixtures or erections of any railroad corporation, or have the right to acquire by condemnation the title or use, or right to run along or upon the lands of any such corporation, except for the purpose of directly crossing the same when necessary.

§ 44. **Construction across and along canals, rivers and creeks.**—No pipe line shall be constructed upon or across any of the canals of this state, except by the consent of and in the manner and upon the terms prescribed by the superintendent of public works, unless constructed upon a fixed bridge across such canal, and with the consent of the person for whose benefit such bridge is constructed and maintained, or upon such a bridge over the canal, at the crossing of a public highway, or street with the consent of the public officers having the supervision thereof, or of the municipal authorities of any village or city within whose limits such bridge may be, nor shall the pipes of any such corporation be laid through or along the banks of any of the canals of this state, nor through or under any of its rivers or creeks, unless such pipes shall be encased so as to prevent leakage, in such manner as shall be approved by the superintendent of public works.

§ 45. **Consent of local authorities.**—No pipe line shall be constructed across, along or upon any public highway without the consent of the commissioners of highways of the town in which such highway is located, upon such terms as may be agreed upon with such commissioners. If such consent or the consent of the commissioners or municipal authorities required by the preceding section can not be obtained, application may be made to the general term of the supreme court of the department in which such highway or bridge is situated for an order permitting the corporation to con-

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struct its line across, along or upon such highway, or across or upon such bridge. The application shall be by duly verified petition and notice which shall be served upon the commissioners of highways of the town in which the highway is situated, or the municipal authorities of the village or city where such bridge is located, according to the practice or order of the court, or an order to show cause, and the court upon the hearing of the application may grant an order permitting the line to be so constructed in such manner and upon such terms as it may direct.

**§ 46. Construction through villages and cities.**—No pipe line shall be constructed into or through any incorporated village or city in this state, unless authorized by a resolution prescribing the route, manner of construction and terms upon which granted, adopted at a regular meeting of the board of trustees of the village or the common council of the city by a two-thirds vote of such board or council, but such resolution shall not affect any private right. No pavement shall be removed in any city under the provisions of this article, unless done under the direction of the common council, nor until such corporation shall give a bond in such sum as the common council may require for the replacing of any pavements which shall have been removed. In case any pavement shall have been removed and not properly relaid, the common council may bring suit in any court of record, for the cost of relaying such pavement against any such corporation. No gas-houses shall be erected in any city under the provisions of this article, for supplying gas to the inhabitants, unless consent is first given by the corporate authorities of the city.

**§ 47. Over Indian reservations.**—Such corporation may contract with the chiefs of any nation of Indians over whose lands it may be necessary to construct their pipe line for the right to construct such pipe line upon such lands, but no such contract shall vest in the corporation the fee of such lands, nor the right to occupy the same for any purpose other than for the construction, operation and maintenance of such pipe line, nor shall such contract be valid or effectual until the same has been ratified by the county court of the county in which the lands are situated.

**§ 48. Over state lands.**—The commissioners of the land office shall have power to grant to any pipe line corporation any lands belonging to the people of this state which may be required for the purposes of its incorporation on such terms as may be agreed on by them or such corporation may acquire title thereto by condemnation,

and if any lands owned by any county, city or town as required by such corporation for such purposes, the county, city or town officers having charge of such lands may grant them to such corporation upon such terms and for such compensation as may be agreed upon.

**§ 49. Additional powers.**—Every corporation formed under this article shall in addition to the powers conferred by the general and stock corporation law have power:

1. To cause such examinations and surveys of its proposed line of pipe to be made as may be necessary to the selection of the most advantageous route, and for such purpose by its officers, agents or servants may enter upon the lands or waters of any person, upon, through or across which such corporation can construct its line of pipe, under the provisions of this article, subject however to liability for all actual damage which shall be done thereto.

2. To take and hold such voluntary grants of real estate and other property, as shall be made to it to aid in the construction, maintenance, operation and accommodation of its pipe line.

3. To lay out its pipe line route not exceeding twelve feet in width, but at the terminations of such line and at all receiving and discharging points and at all places where machinery may properly or must necessarily be set up for the operation of such pipe line it may take such additional width, and for such length as may be necessary.

4. To take and convey through pipes any property, substance or product capable of transportation therein by any force, power or mechanical agency, and to erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the purposes of its incorporation.

5. To regulate the time and manner in which property shall be transported over its pipe lines, and the compensation to be paid therefor, but such compensation shall not exceed the sum or be above the rate of twenty-five cents per one hundred miles for the transportation of forty-two gallons of any product transported on lines of one hundred miles in length or over, which shall be reckoned and adjusted upon the quantity or number of gallons delivered by such corporation at the point to which it shall have undertaken to deliver the same.

**§ 50. Use of line to be public; storage; liable as common carriers; rates and charges.**—The pipe lines of every such corporation shall be open for transportation to the public use, and all persons desiring to transport products through such pipe line shall

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have the absolute right upon equal terms to such transportation in the order of application therefor, on complying with the general requirements of such corporation, as to delivery for and payment of such transportation, but no application for such transportation shall be valid beyond or for a greater quantity of products than the applicant shall then own and have ready for delivery for transportation to such corporation, and every such corporation shall provide suitable and necessary receptacles for receiving all such products for transportation, and for storage at the place of delivery until the same can reasonably be moved by the consignee, and shall be liable as common carriers therefor from the time the same is delivered for transportation until a reasonable time after the same has been transported to the place of consignment and ready for delivery to the consignee, which time shall be fixed by general regulation by the corporation, and shall not be less than two days from and after the same shall be ready for delivery and notice thereof given to such consignee, at all rates and charges of every description, for or on account of or in any manner connected with the transportation of any products, shall be fixed by such corporation by general rules and regulations, which shall be applicable to all parties who shall transport any products through such pipe line, or deliver or contract to deliver products for transportation and shall be written or printed and exposed to public view and at all times open to public examination.

**§ 51. Receipts for property ; cancellation of vouchers ; delivery of property.**—No receipt, certificate or order of any kind shall be made, accepted or issued by any pipe line corporation for any commodity unless the commodity represented by them is actually in possession of the corporation at the time of making, issuing or acceptance thereof. Whenever any such corporation shall have parted with the possession of any commodity and received therefor any order, voucher, receipt or certificate, such order, voucher, receipt or certificate shall not be issued or used again, but shall be canceled with the word "canceled" stamped or printed legibly across the face thereof, and such canceled order, voucher, receipt or certificate shall be filed and preserved by such corporation and a record of the same kept by the secretary thereof. No petroleum or other commodity received for transportation by such corporation shall be delivered to any person without the presentation and surrender of all vouchers, receipts, orders or certificates that have been issued or accepted for the same.

**§ 52. Monthly statements.**—Every pipe line corporation shall make monthly a specific statement showing the amount of all commodities received, the amount delivered during the month, and the stock on hand on the last day of each month of the year, and how much of such stock is represented by outstanding certificates, vouchers, receipts or orders, and how much in credit balances on the books of the corporation. Such statement shall be made on or before the tenth day of the succeeding month and verified by the oath of the president and secretary that it is in all respects true and correct, and shall be filed within three days thereafter in the county clerk's office in the county where the principal office of the corporation is located, and a true copy of the same posted in a conspicuous place in its principal office for at least thirty days thereafter.

**§ 53. Fences ; farm crossings and use of line not inclosed.**—It shall not be necessary for any such corporation to fence the lands acquired by them for the purposes of its incorporation. But, if not enclosed by a substantial fence, the owner of the adjoining lands from whom such lands were obtained, his heirs or assigns, may occupy and use such lands in any manner not injurious to the interests of the corporation and shall not be liable therefor, or for any trespass upon any such lands except for willful or negligent injuries to the pipes, fixtures, machinery or personal property of the corporation. If the corporation shall keep such lands inclosed it shall construct and provide all suitable and necessary crossings with gates for the use and convenience of any owners of lands adjoining the portion of its lands so inclosed, and no claim shall be made by it against any owner of adjoining lands to make or contribute to the making or maintaining of any division fence between such adjoining lands and its lands, and if it shall neglect to keep\* and maintain substantial fences along its lands the owners of adjoining lands may construct and maintain all farm or division fences, and all line fences crossed by such pipe line in the same manner as though it had not acquired such lands for such pipe line, and it shall be liable for all injuries to such fences caused or done by any of its officers or agents, or any persons acting in their or its behalf, or by any laborer in its or their employ or in the employ of any of its contractors.

**§ 54. Taxation of property.**—The real estate and personal property belonging to any pipe line corporation in this state, shall be assessed and taxed in the several towns, villages and cities in the same manner as the real estate and personal property of railroad corpora-

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\* So in the original.



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tions are assessed and taxed, and such corporation may pay such taxes or commute therefor in the same manner as railroad corporations.

## ARTICLE VI.

### GAS AND ELECTRIC LIGHT CORPORATIONS.

#### SECTION 60. Incorporation.

- 61. Powers.
- 62. Appointment of inspectors of gas meters.
- 63. Deputy inspectors.
- 64. Inspection of gas meters.
- 65. Gas or electric light must be supplied on application.
- 66. Deposit of money may be required.
- 67. Entry of buildings to \* meters or lights.
- 68. Refusal or neglect to pay rent.
- 69. No rent for meters to be charged.
- 70. Price of gas.

**SECTION 60. Incorporation.**— Three or more persons may become a corporation for manufacturing and supplying gas for lighting the streets and public and private buildings of any city, village or town, or two or more villages or towns not over five miles distant from each other, in this state, or for manufacturing and using electricity for producing light, heat or power, and in lighting streets, avenues, public parks and places and public and private buildings of cities, villages and towns within this state, by making, signing, acknowledging and filing a certificate stating the name of the corporation, its objects, the amount of its capital stock, the term of its existence not to exceed fifty years, the number of shares of which the stock shall consist, the number of directors not less than three nor more than thirteen, the names and places of residence of the directors for the first year, and the name of the town and county in which the operations of the corporation are to be carried on, and thereupon the persons who shall have signed the same, their associates and successors shall be a corporation by the name stated in the certificate.

**§ 61. Powers.**— Every such corporation shall have the following additional powers:

1. If incorporated for the purpose of supplying gas for light, to manufacture, sell and furnish such quantities of gas as may be required in the city, town or village where the same shall be located, or said two or more villages or towns, not over five miles distant from each other, named in its certificate of incorporation, for lighting the

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\* So in the original.

streets, and public or private buildings or for other purposes; and to lay conductors for conducting gas through the streets, lanes, alleys, squares and highways, in such city, villages or towns, with the consent of the municipal authorities thereof, and under such reasonable regulations as they may prescribe; and such municipal authorities shall have power to exempt any such corporation from taxation on their personal property for a period not exceeding three years from the organization of the corporation.

2. If incorporated for the purpose of using electricity for light, heat or power, to carry on the business of lighting by electricity or using it for heat or power in cities, towns and villages within this state, and the streets, avenues, public parks and places thereof, and public and private buildings therein; and for the purposes of such business to generate and supply electricity; and to make, sell or lease all machines, instruments, apparatus and other equipments therefor, and to lay, erect and construct suitable wires or other conductors, with the necessary poles, pipes or other fixtures in, on, over and under the streets, avenues, public parks and places of such cities, towns or villages, for conducting and distributing electricity, with the consent of the municipal authorities thereof, and in such manner and under such reasonable regulations, as they may prescribe.

3. Any two or more corporations organized under this article or under any general or special law of the state for the purpose of carrying on any business which a corporation organized under this article might carry on, may consolidate such corporations into a single corporation by complying with the provisions of the business corporations law relating to the consolidation of business corporations.

§ 62. **Inspector of gas meters.**—The governor shall nominate, and by and with the consent of the senate, appoint an inspector of gas meters, who shall reside in the city of New York, whose duty it shall be, when required, to there inspect, examine, prove and ascertain the accuracy of any and all gas meters used or intended to be used for measuring or ascertaining the quantity of illuminating gas furnished by any gas-light corporation in this state, except corporations engaged in supplying natural gas to consumers, to or for the use of any person or persons, and, when found to be or made correct, to seal, stamp or mark all such meters, and each of them, with some suitable device, which device shall be recorded in the office of the secretary of state. Such inspector shall hold his office for the term of five years and until the appointment of his successor, but may be removed by the governor for sufficient cause. He shall re-

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ceive an annual salary of twenty-five hundred dollars, to be paid in the first instance out of the state treasury on the warrant of the comptroller, which shall be charged to and paid into the state treasury by the several gas-light corporations in this state, in amounts proportionate to the amount of the capital stock of such corporations respectively, to be ascertained and assessed by the comptroller of the state. If any such corporation shall refuse or neglect to pay into the state treasury the amount or portion of such salary required of them respectively, for the space of thirty days after written notice given it by the comptroller to make such payment, then the comptroller may maintain an action, in his name of office, against any such delinquent corporation for its portion or amount of such salary, with interest thereon at the rate of ten per cent per annum from the time when such notice was given and the costs of the action.

**§ 63. Deputy inspectors.**—The inspector of gas meters shall appoint deputy inspectors of gas meters, to reside wherever gas meters are manufactured in this state, to hold office during his pleasure, and who shall in their respective places of residence discharge the same duties as are required of the inspector and be paid by him out of his salary at the rate of two dollars per day, while actually engaged in the discharge of such duties.

**§ 64. Inspection of gas meters.**—No corporation or person shall furnish or put in use any gas meter, which shall not have been inspected, proved and sealed by the inspector, except during such time as the office of inspector may be vacant, or such inspector after request made, shall refuse or neglect to prove and seal the meters furnished for that purpose, and every gas-light corporation shall provide and keep in and upon their premises a suitable and proper apparatus, to be approved and sealed by the inspector of meters, for testing and proving the accuracy of the gas meters furnished for use by it, and by which apparatus every meter may and shall be tested, on the written request of the consumer, to whom the same shall be furnished, and in his presence if he desire it. If any such meter on being so tested, shall be found defective or incorrect to the prejudice or injury of the consumer, the necessary removal, inspection correction and replacing of such meter shall be without expense to the consumer, but in all other cases he shall pay the reasonable expenses of such removal, inspection and replacing; and in case any consumer shall not be satisfied with such inspection of the meter furnished to him, and shall give to the corporation written notice to that effect, he may

have such meter reinspected by the state inspector, if he require it, upon the same terms and condition as herein provided for the original inspection thereof.

**§ 65. Gas and electric light must be supplied on application.**—Upon the application, in writing, of the owner or occupant of any building or premises within one hundred feet of any main laid down by any gas-light corporation, or the wires of any electric light corporation, and payment by him of all money due from him to the corporation, the corporation shall supply gas or electric light as may be required for lighting such building or premises, notwithstanding there be rent or compensation in arrear, for gas or electric light supplied, or for meter, wire, pipe or fittings, furnished to a former occupant thereof, unless such owner or occupant shall have undertaken or agreed with the former occupant to pay or exonerate him from the payment of such arrears, and shall refuse or neglect to pay the same; and if for the space of ten days after such application, and the deposit of a reasonable sum as provided in the next section, if required, the corporation shall refuse or neglect to supply gas or electric light as required, such corporation shall forfeit and pay to the applicant the sum of ten dollars, and the further sum of five dollars for every day thereafter during which such refusal or neglect shall continue; provided that no such corporation shall be required to lay service pipes or wires for the purpose of supplying gas or electric light to any applicant where the ground in which such pipe or wire is required to be laid shall be frozen, or shall otherwise present serious obstacles to laying the same; nor unless the applicant, if required, shall deposit in advance with the corporation a sum of money sufficient to pay the cost of his portion of the pipe or wire required to be laid, and the expense of laying such portion.

**§ 66. Deposit of money may be required.**—Every gas light and electric light corporation may require every person to which such corporation shall supply gas or electric light for lighting any building, room or premises to deposit with such corporation a reasonable sum of money according to the number and size of lights used or required, or proposed to be used for two calendar months, by such person, and the quantity of gas and electric light necessary to supply the same as security for the payment of the gas and electric light rent or compensation for gas consumed, or rent of pipe or wire and fixtures, to become due to the corporation, but every corporation shall allow and pay to every such depositor legal interest on the sum deposited for the time his deposit shall remain with the corporation.

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§ 67. Buildings may be entered for the examination of meters, lights, and-so-forth.—Any officer or other agent of any gas light or electric light corporation, for that purpose duly appointed and authorized by the corporation, may, at all reasonable times, upon exhibiting a written authority, signed by the president and secretary of the corporation, enter any dwelling, store, building, room or place lighted with gas or electric light supplied by such corporation, for the purpose of inspecting and examining the meters, pipes, fittings, wires and works for supplying or regulating the supply of gas or electric light and of ascertaining the quantity of gas or electric light consumed or supplied, and if any person shall, at any time, directly or indirectly, prevent or hinder any such officer or agent from so entering any such premises, or from making such inspection or examination at any reasonable time, he shall, for every such offense, forfeit to the corporation twenty-five dollars.

§ 68. Refusal or neglect to pay rent.—If any person supplied with gas or electric light by any such corporation shall neglect or refuse to pay the rent or remuneration due for the same or for the wires, pipes or fittings let by the corporation, for supplying or using such gas or electric light or for ascertaining the quantity consumed or used as required by his contract with the corporation, or shall refuse or neglect, after being required so to do, to make the deposit required, such corporation may prevent the gas or electric light from entering the premises of such person; and their officers, agents or workmen may enter into or upon any such premises between the hours of eight o'clock in the forenoon and six o'clock in the afternoon, and separate and carry away any meter, pipe, fittings, wires or other property of the corporation, and may disconnect any meter, pipe, fittings, wires or other works whether the property of the corporation or not, from the mains, pipes or wires of the corporation.

§ 69. No rent for meters to be charged.—No gas-light corporation in this state, shall charge or collect rent on its gas meters, either in a direct or indirect manner, and any person, party or corporation violating this provision shall be liable to a penalty of fifty dollars for each offense, to be sued for and recovered in the corporate name of the city or village where the violation occurs, in any court having jurisdiction, and when collected to be paid into the treasury of such city or village and to constitute a part of the contingent or general fund thereof.

§ 70. Price of gas.—In any city in this state having a population of eight hundred thousand or over, no corporation or person shall

charge for illuminating gas a sum to exceed one dollar and twenty-five cents per thousand feet, and such gas shall have an illuminating power of not less than twenty sperm candles, of six to the pound, and burning at the rate of one hundred and twenty grains of spermaceti per hour, tested at a distance of not less than one mile from the place of manufacture, by a burner consuming five cubic feet of gas per hour, and shall comply with the standard of purity now or hereafter established by law; but in any district or ward of any city containing over one million inhabitants, which district or ward is separated from the main portion thereof by a stream or other natural boundary, any gas-light corporation may charge a price not to exceed one dollar and sixty cents per thousand cubic feet, but such corporation shall not charge a greater price in the city where its main works shall be situated than in such district or ward.

## ARTICLE VII.

### WATER-WORKS CORPORATIONS.

#### SECTION 80. Incorporation.

- 81. Must supply water; village trustees may contract for same; tax therefor.
- 82. Powers.
- 83. Survey and map.
- 84. Condemnation of real property.
- 85. Corporation may contract with other towns or villages · amended certificate.

§ 80. Incorporation.—Seven or more persons may become a corporation for the purpose of supplying water to any of the cities, towns or villages and the inhabitants thereof in this state, by executing acknowledging and filing a certificate stating the name of the corporation, the amount of its capital stock, the number of shares into which it is to be divided, the location of its principal office, the number of its directors, not less than seven, the names and places of residence of the directors for the first year, the name of the cities, towns and villages which it is proposed to supply with water; that the permit of the authorities of such cities, towns and villages herein required has been granted; the post-office address of each subscriber, and the number of shares he agrees to take in such corporation, the aggregate of which shall be at least one-tenth of the capital stock, and ten per centum of which shall be paid in cash to the directors. At the time of filing there shall be annexed to the certificate and as a part thereof, a permit, signed and acknowledged by a majority of



the board of trustees of the village, in case an incorporated village is to be supplied with water, and in case a town, or any part thereof, not within an incorporated village, is to be so supplied, by the supervisor, justice of the peace, town clerk and highway commissioners thereof or a majority of them, and in case a city is to be supplied with water by the board of water commissioners of said city, or by such other board or set of officials as perform the duties of water commissioners and have charge of the water supply for said city, authorizing the formation of such corporation for the purpose of supplying such city, village or town with water, and an affidavit of at least three of the directors that the amount of capital stock herein required has been subscribed and paid in cash. [*Thus amended by L. 1892, chap. 617.*]

§ 81. **Must supply water ; village trustees or city officials may contract for same ; tax therefor.**— Every such corporation shall supply the authorities or inhabitants of any city, town or village where they have organized with pure and wholesome water at reasonable rates and cost to all consumers who may use the same, and the board of trustees of any incorporated village, and the water commissioners or other board or officials performing the duties of water commissioners and having charge of the water supplies of any city of this state shall have the power to contract for the term of one year or more with any such corporation for the delivery by it to the village or city of water, through hydrants or otherwise, for the extinguishment of fires and for sanitary and other public purposes ; and the amount of such contract agreed to be paid shall be annually raised as a part of the expenses of such village or city, and shall be levied, assessed and collected in the same manner as other expenses of the village or city are raised, and when collected shall be kept separate from other funds of the village, or city, and be paid over to such corporation by such trustees or city officials according to the terms and conditions of any such contract ; and any such contract entered into by the board of trustees of any village, or water commissioners or other board performing the duties of water commissioners and having charge of the water supply of any city shall be valid and binding upon such village or city, but no such contract shall be made for a longer period than ten years, nor for a sum exceeding in the aggregate two and one-half mills for every dollar of the taxable property of such village or city per annum, unless a resolution authorizing the same has been submitted to a vote of the electors of the village or city, in the manner provided by the village law or city charter and approved

by a majority of the voters entitled to vote, and voting on such question at any annual election or at a special election duly called; and any board of trustees or board of water commissioners or other city officials when so authorized, may make such contract for a term not exceeding thirty years, and the amount of such contract shall be paid in semi-annual installments. [*Thus amended by L. 1892, chap. 617.*]

§ 82. **Powers.**—Every such corporation shall have the following additional powers:

1. To lay and maintain their pipes and hydrants for delivering and distributing water in any street, highway or public place of any city, town or village in which it has obtained the permit required by section eighty of this article.

2. To lay their water pipes in any streets or avenues or public places of an adjoining city, town or village, to the city, town or village where such permit has been obtained.

3. To cause such examinations and surveys for its proposed water-works to be made as may be necessary to determine the proper location thereof, and for such purpose by its officers, agents or servants to enter upon any lands or waters in the city, town or village where organized, or in any adjoining city, town or village for the purpose of making such examinations or surveys, subject to liability for all damages done. [*Thus amended by L. 1892, chap. 617.*]

§ 83. **Survey and map.**—Before entering upon, taking or using any land, for the purposes of its incorporation such corporation shall cause a survey and map to be made of the lands intended to be taken or entered upon, by and on which the land of each owner or occupant shall be designated, which map shall be signed by the president and secretary, and filed in office of the county clerk of the county in which such lands are situated.

§ 84. **Condemnation of real property.**—Any corporation organized under this article, shall have the right to acquire real estate, or any interest therein necessary for the purposes of its incorporation, and the right to lay, relay, repair and maintain conduits and water pipes with connections and fixtures, in, through or over the lands of others; the right to intercept and divert the flow of waters from the lands of riparian owners, and from persons owning or interested in any waters, and the right to prevent the flow or drainage of noxious or impure matters from the lands of others into its reservoirs or sources of supply. If any such corporation, which has made a contract with any city, town or village to supply it with pure and

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wholesome water as authorized by section eighty-one of this article, shall be unable to agree upon the terms of purchase of any such property or rights, it may acquire the same by condemnation. But no such corporation shall have power to take or use water from any of the canals of this state, or any canal reservoirs as feeders, or any streams which have been taken by the state for the purpose of supplying the canals with water. [*Thus amended by L. 1892, chap. 617.*]

§ 85. Corporation may contract with other cities, towns or villages; amended certificate.—When any such corporation has entered into a contract with the authorities of any city, town or village not mentioned in its certificate of incorporation, but situated in the same county as the city, towns or villages mentioned therein or an adjoining county, to supply it with pure and wholesome water, it may file an amended certificate, stating the name of such other city, town or village to be so supplied with water, and it may thereupon supply any such city, town or village with water in the same manner and with the same rights and subject to the same requirements as if it had been named in the original certificate of incorporation. [*Thus amended by L. 1892, chap. 617.*]

## ARTICLE VIII.

### TELEGRAPH AND TELEPHONE CORPORATIONS.

#### SECTION 100. Incorporation.

- 101. Extension of lines.
- 102. Construction of lines.
- 103. Transmission of dispatches.
- 104. Consolidation of corporations.
- 105. Special policemen.

SECTION 100. Incorporation.—Seven or more persons may become a corporation for the purpose of constructing, owning, using and maintaining a line or lines of electric telegraph or telephone, wholly within or partly beyond the limits of this state, or for the purpose of owning any interest in any such line or lines, or any grants therefor by executing, acknowledging and filing a certificate, stating the name of the corporation; its general route and the points to be connected; its capital stock; the number of shares into which it is to be divided; the term of its existence; the number of its directors not less than seven; the names and residence of the directors for the first year, and the post-office address of the subscribers and

the number of shares which each agrees to take in such corporation.

§ 101. **Extension of lines.**—Any such corporation may construct, own, use and maintain any line of electric telegraph or telephone, not described in its original certificate of incorporation, whether wholly within or wholly or partly beyond the limits of this state, and may join with any other corporation in constructing, leasing, owning, using and maintaining such line, or hold or own any interest therein, or become lessees thereof, upon filing in the same manner as the original certificate is required to be filed an amended certificate, executed and acknowledged by at least two-thirds of the directors of such corporation, describing the general route of such line or lines, and designating the extreme points connected thereby, and upon procuring the written consent of the persons owning at least two-thirds of the capital stock of such corporation, and such amended certificate shall not be filed until there is indorsed thereon or annexed thereto an affidavit made by at least three of the directors of the corporation that such consent has been obtained, which affidavit shall be filed with and be a part of such certificate.

§ 102. **Construction of lines.**—Such corporation may erect, construct and maintain the necessary fixtures for its lines upon, over or under any of the public roads, streets and highways; and through, across or under any of the waters within the limits of this state, and upon, through or over any other land, subject to the right of the owners thereof to full compensation for the same. If any such corporation can not agree with such owner or owners upon the compensation to be paid therefor, such compensation shall be ascertained in the manner provided in the condemnation law.

§ 103. **Transmission of despatches.**—Every such corporation shall receive despatches from and for other telegraph or telephone lines or corporations, and from and for any individual, and on payment of the usual charges by individuals for transmitting despatches as established by the rules and regulations of such corporation, transmit the same with impartiality and good faith and in the order in which they are received, and if it neglects or refuses so to do, it shall pay one hundred dollars for every such refusal or neglect to the person or persons sending or desiring to send any such despatch and entitled to have the same so transmitted, but arrangements may be made with the proprietors or publishers of newspapers for the transmission for publication of intelligence of general and public interest out of its regular order.

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**§ 104. Consolidation of corporations.**—Any corporation organized under this article may lease, sell or convey its property, rights, privileges and franchises, or any interest therein, or any part thereof to any telegraph or telephone corporation organized under or created by the laws of this or any other state, and may acquire by purchase, lease or conveyance the property rights, privileges and franchises, or any interest therein or part thereof of any such corporation, and may make payments therefor in its own stock, money or property, or receive payment therefor in the stock, money or property of the corporation to which the same may be sold, leased or conveyed, but no such lease, sale, purchase or conveyance shall be valid until it shall have been ratified and approved by a three-fifths vote of its board of directors or trustees, and by the vote or written consent of stockholders owning at least three-fifths of the capital stock given at a meeting of all the stockholders duly called for that purpose.

**§ 105. Special policemen.**—The police department or board of police of any city may, in addition to the police force now authorized by law, appoint a number of persons, not exceeding two hundred, who may be designated by any corporation operating a system of signaling by telegraph to a central office for police assistance, to act as special patrolmen in connection with such telegraphic system. And the person so appointed shall, in and about such service, have all the powers possessed by the members of the regular force, except as may be limited by and subject to the supervision and control of the police department or board of police of such city. No person shall be appointed such special policeman who does not possess the qualifications required by such police department or board of police for such special service; and persons so appointed shall be subject, in case of emergency, to do duty as part of the regular police force of the city. The police department or board of police shall have power to revoke any such appointment at any time, and every person appointed shall wear a badge and uniform, to be furnished by such corporation and approved by the police department or board of police, such uniform shall be designated at the time of the first appointment and shall be the permanent uniform to be worn by such special police, and the pay of such special patrolmen and all expenses connected with their service shall be wholly paid by such corporation, and no expense or liability shall at any time be incurred or paid by the police department or board of police of any city, for or by reason of the services of such persons so appointed.

## ARTICLE IX.

## TURNPIKE, PLANK-ROAD AND BRIDGE CORPORATIONS.

## SECTION 120. Incorporation.

121. Restriction upon location of road.
122. Agreement for use of highway.
123. Application to board of supervisors.
124. Commissioners to lay out road.
125. Possession of and title to real estate.
126. Use of turnpike road by plank-road.
127. Width and construction of road.
128. Construction of bridges.
129. Certificate of completion of road or bridge.
130. Toll-gates and rates of toll, and exemptions.
131. Toll gatherers.
132. Penalty for running a gate.
133. Location of gates and change thereof.
134. Inspectors, their powers and duties.
135. Change of route, extensions and branches.
136. Milestones, guide-posts and hoist-gates.
137. Location of office of corporation.
138. Consolidation of corporations, sale of franchise.
139. Surrender of road.
140. Taxation and exemption.
141. Hauling logs and timber.
142. Encroachment of fences.
143. Penalty for fast driving over bridges.
144. Acts of directors prohibited.
145. Actions for penalties.
146. Proof of incorporation.
147. When stockholders, to be directors.
148. Dissolution of corporation, road to be a highway.
149. Town must pay for lands not originally a highway.
150. Highway labor upon line of plank-road or turnpike.
151. Extension of corporate existence.

SECTION 120. Incorporation.—Five or more persons may become a corporation for the purpose of constructing, maintaining, and owning a turnpike, plank-road or a bridge, or causeway across any stream or channel of water, or adjoining bay, swamp, marsh, or water to form in connection with such bridge or causeway a continuous roadway across the same, by signing, acknowledging and filing a certificate containing the name of the corporation, its duration, not exceeding fifty years, the amount and number of shares of its capital stock, the number of its directors, and their names and post-office address for the first year, the termini of the proposed road, its length, and



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each town, city or village into or through which it is to pass, or of a bridge, the location and plan thereof, and the post-office address of each subscriber, and the number of shares of stock which he agrees to take, the aggregate of which subscriptions shall not be less than five hundred dollars for every mile of road, or if a bridge corporation not less than one-fourth of the amount of the capital stock, and five per cent of which must be actually paid in cash. There shall be indorsed on and annexed to the certificate and made a part thereof the affidavit of at least three of the directors named therein, that the required amount of capital stock has been subscribed and the prescribed percentage paid in cash.

§ 121. **Restrictions upon location of road.**—No such road shall be laid out through any orchard of the growth of four years or more to the injury or destruction of fruit trees, or through any garden cultivated for four years or more before the laying out of the road, or through any dwelling-house or building connected therewith, or any yards or inclosures necessary for its use or enjoyment without the consent of the owner thereof, nor shall any such corporation bridge any stream in any manner that will prevent or endanger the passage of any raft of twenty-five feet in width, or where the same is navigable by vessels or steamboats.

§ 122. **Agreement for use of highways.**—The supervisor and commissioner of highways, or a majority if there be more than one of any town, may agree in writing with any such corporation for the use of any part of a public highway therein required for the construction of any such road, and the compensation to be paid by the corporation for taking and using such highway for such purpose on first obtaining consent of at least two-thirds of all the owners of land bounded on or along such highway, which agreement shall be filed and recorded in the town clerk's office of the town. If such agreement can not be made the corporation may require the right to take such highway for such purpose by condemnation. The compensation therefor shall be paid to the commissioners of highways, to be expended by them in improving the highways of the town.

§ 123. **Application to board of supervisors.**—If the lands necessary for the construction of the road or bridge of any such corporation in any county have not been procured by gift or purchase, and the right to take and use any part of any highway therein required by such corporation shall not have been procured by agreement with the supervisor and commissioners of highways of the town in which such highway is situated, the corporation may make appli-

cation to the board of supervisors of each county in which such bridge or road, or any part thereof, is to be located, for authority to build, lay out and construct the same, and take the necessary real estate for such purpose. Notice of the application shall be published in at least one public newspaper in each county for six successive weeks, specifying the time and place where it will be made, the location, length and breadth of any such bridge, and the length and route of any such proposed road, its character, and each town, city and village in or through which it is to be constructed. The application may be made at any annual or special meeting of the board, and if the corporation desires a special meeting therefor any three members of the board may fix a time when the same shall be held, and notice thereof shall be served upon each of the other supervisors by delivering the same to him personally or leaving it at his place of residence at least twenty days before the meeting, and the expenses of the special meeting and of notifying the members of the board thereof shall be paid by the corporation. All persons interested therein or owning real estate in any of the towns through which it is proposed to construct the road may appear and be heard upon the hearing of the application. The board may take testimony in respect thereto, or authorize it to be taken by a committee of the board and may adjourn the hearing from time to time. After hearing the application the board may, by an order entered in its minutes, authorize the corporation to construct such bridge or road and to take the real estate necessary for that purpose, and a copy of the order certified by the clerk of the board shall be recorded by the corporation in the office of the clerk of the county in which such bridge or road or any part thereof is to be located before any act shall be done under it.

§ 124. Commissioners to lay out road.— If the application for the construction of any such road is granted, the board shall appoint three disinterested persons, not owners of real estate in any town, through which the road is to be constructed or in any adjoining town, commissioners to lay out the road. They shall take the constitutional oath of office, and without unnecessary delay lay out the route of such road in such manner as in their opinion will best promote the public interests; they shall hear all persons interested who shall apply to be heard and may take testimony in relation thereto, and shall cause an accurate survey and description of the road and the necessary buildings and gates, signed and acknowledged by them to be recorded in the clerk's office of the county. If the road is situated in more than one county, such survey and description shall be separate as to that

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portion in each county and filed in the office of the clerk of the county in\* which it relates. The corporation shall pay each commissioner three dollars for every day spent by him in the performance of his duties and his necessary expenses.

§ 125. **Possession of and title to real estate.**—The route so laid out and surveyed by the commissioners shall be the route of the road, and the corporation may enter upon, take and hold for the purposes of its incorporation, the lands described in such survey as necessary for the construction of its road, and requisite buildings and gates. If for any cause the owner of any of such lands shall be incapable of selling the same or his name or residence can not, with reasonable diligence be ascertained or the corporation is unable to agree with the owner for the purchase thereof it may acquire title thereto by condemnation.

§ 126. **Use of turnpike road by plank-road.**—No plank-road shall be made on the roadway of any turnpike corporation without its consent, except for the purpose of crossing the same. Any plank-road corporation may contract with any connecting turnpike corporation for the purchase of its roadway or a part thereof, or of its stock, on such terms as may be mutually agreed upon, and such stock, if purchased, shall be held by the plank-road corporation for the benefit of its stockholders in proportion to the amount of stock held by each, and a transfer of stock in the plank-road corporation shall carry with it its proportional amount of the turnpike stock, and entitle the holder thereof to his share of the dividends derived therefrom. After the purchase of the whole of the stock of any such turnpike corporation by such plank-road corporation the directors of the plank-road corporation shall be the directors of the turnpike corporation, and shall manage its affairs and render an account of the same annually to the stockholders of the plank-road corporation. If the plank-road corporation is dissolved, its stockholders at the time of dissolution shall be the stockholders of the turnpike corporation in proportion to the amount of stock held by each, and the stock of the turnpike corporation shall thereafter be deemed to be divided into shares equal in number to the shares of stock of the late plank-road corporation, and scrip therefor shall be issued accordingly to each of the last stockholders of the plank-road corporation, and the officers of the turnpike corporation shall be the same in number as provided for in its charter or certificate of incorporation, and shall be chosen by such former stockholders of the

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plank-road corporation or their assigns. A corporation owning a turnpike road on or adjoining which a plank-road shall have been constructed may abandon that portion of its road on or adjoining the route of which a plank-road is actually constructed and used.

§ 127. **Width and construction of road.**—Every such plank-road shall be so constructed as to make, secure and maintain a smooth and permanent road, the track of which shall be made of timber, plank or other hard material forming a hard and even surface, and every such turnpike road shall be bedded with stone, gravel or such other material as may be found on the line thereof, and faced with broken stone or gravel, forming a hard and even surface with good and sufficient ditches on each side wherever practicable, and all such roads shall be laid out at least four rods wide and the arch or bed at least eighteen feet wide, and shall be so constructed as to permit carriages and other vehicles conveniently to pass each other, and to pass on and off such road where intersected with other roads. Any corporation which shall have once laid its road with plank may relay the same, or any part thereof, with broken stone, gravel, shells or other hard materials, forming a good and substantial road. Any plank-road or turnpike corporation may lay iron rails on its road suitable for the use of wagons and vehicles drawn by horses or animals over its road, but no other motive power shall be used thereon.

§ 128. **Construction of bridges; obstruction of rafts prohibited.**—Every bridge constructed by any such corporation shall be built with a good and substantial railing or siding at least four and one-half feet high, and over any stream navigable by rafts the corporation shall keep the channel of the stream above and below the bridge free and clear from all deposits, formed or occasioned by the erection of the bridge, which shall in any wise obstruct the navigation thereof, and shall be liable to all persons unreasonably or unnecessarily delayed or hindered in passing the same for all damages sustained thereby. No such bridge shall be constructed over or across any river or water-course where the tide ebbs and flows or any water used for a harbor, or any lake, river or water navigable by sail vessels or steamboats, nor within the limits prescribed by law, within which a bridge shall not be erected and maintained in proximity to another bridge.

§ 129. **Certificate of completion of road or bridge.**—When any such corporation shall have completed its bridge or road or any five consecutive miles thereof, it may apply to the commissioners of

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highways of each town in which the completed road or bridge is situated to inspect the same, and if a majority of the commissioners are satisfied that the road or bridge is made and completed as required by law and in a manner safe and convenient for the public use, they shall make a certificate to that effect, which shall be filed in the office of the county clerk. Each commissioner shall be paid by the corporation two dollars per day for his services and necessary expenses.

**§ 130. Gates, rates of toll; and exemption.**— Upon filing such certificate such corporation may erect a toll-gate at such bridge or one or more toll-gates upon the road so inspected, and may demand and receive the following rates of toll, a printed list of which shall be conspicuously posted at or over each gate: If a bridge corporation, such sum as shall be from time to time prescribed by the board of supervisors of the county or counties in which the bridge is located. If a turnpike or plank-road, for every vehicle drawn by one animal, one cent per mile, and one cent per mile for each additional animal; for every vehicle used chiefly for carrying passengers, three cents per mile, and one cent per mile for each additional animal; for every horse rode, led or driven, three-quarters of a cent per mile; for every score of sheep or swine, one and one-half cents per mile, and for every score of neat cattle, two cents per mile. When diverging roads strike any plank-road or turnpike at or near any toll-gate, the board of supervisors of the county may direct that the toll charge shall commence from the point of such divergence, and only for the distance traveled on such turnpike or plank-road, but fractions of cents may be made units of cents in favor of the plank-road or turnpike corporation. The corporation may from time to time commute, but not for a longer period than one year at any one time, with any person whose place of abode shall adjoin or be near to the road for the toll payable at the nearest gate on each side thereof, and the commutation may be renewed from year to year. No tolls shall be charged or collected at any gate, from any person going to or from public worship, a funeral, school, town meeting or election, at which he is a voter to cast his vote, a military parade which he is required by law to attend, any court which he shall be required to attend as a juror or witness, and when going to or from his legally required work upon any public highway, persons living within one mile of the gate by the most usually travelled road when not engaged in the transportation of other persons or property, and troops in the actual service of this state or of the United States.

§ 131. **Toll gatherers.**—Every such corporation may appoint toll gatherers to collect toll at each gate, who may detain and prevent from passing through the gate, any person riding, leading or driving animals or vehicles, subject to the payment of toll, until the toll is paid, but if he shall unreasonably hinder or delay any traveler or passenger liable to the payment of toll, or shall demand or receive from any person more toll than he is authorized by law to collect, he shall forfeit to such person the sum of five dollars for every offense, and the corporation employing him shall be liable for the payment thereof, and for any damages sustained by any person for acts done or omitted to be done by him in his capacity of toll gatherer, if, on recovery of judgment against the toll gatherer therefor, execution thereon shall be returned *nulla bona*.

§ 132. **Penalty for running a gate.**—Any person who, with intent to avoid the payment of toll, shall pass any gate, without paying the toll required by law, or shall, with his team, carriage or horse, turn out of a turnpike or plank-road and pass any gate thereon on ground adjacent thereto, shall forfeit for each offense the sum of ten dollars to the corporation injured.

§ 133. **Location of gates and change thereof.**—No such corporation shall erect any toll gate, house, or other building within ten rods of the front of any dwelling house, barn or other out house, without the written consent of the owner, and the county judge of the county in which the same is located shall, on application, order any building so erected to be removed, and if a majority of the commissioners of highways of any town, in which a toll-gate shall be located, or in an adjoining town, shall deem the location of any gate unjust to the public interests by reason of the proximity of diverging roads or otherwise, they may, on fifteen days' written notice to the president or secretary of the corporation, apply to the county court of the county in which the gate is located, for an order to alter or change its location. On hearing such application, and viewing the premises, if deemed necessary, the court may make such order in the matter as may be just and proper. Either party may, within fifteen days thereafter, appeal to the general term of the supreme court from such order, on giving such security as the county judge, making the order, may prescribe. Upon such appeal the supreme court, on motion of either party and on due notice, shall appoint three disinterested persons who are not residents of any town through or into which such road shall run, or to or from which it is the principal thoroughfare, or any adjoining town, as referees to hear, try and de-



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termine the appeal. Such referees shall view the premises and the location of the gate, and hear the parties in the same manner as on the trial of an issue of fact by a referee in a civil action in the supreme court, and report their decision thereon and the reasons therefor, and the evidence taken thereon to the supreme court, and such court shall review the report and render judgment thereon as justice and equity shall require, which shall be final and conclusive. The referees shall be entitled to the same fees as referees in civil actions in the supreme court, to be paid in the first instance by the party in whose favor their report or decision shall be, and the supreme court shall award judgment therefor, with such costs and expenses as it may deem reasonable, to the successful party on the appeal, which judgment shall be entered with the order affirming or reversing the order appealed from, and may be enforced by execution as a judgment of a court of record. If the order of the county court is not appealed from, it may be enforced, as the court may direct, and the court may allow such costs as may be deemed just and equitable.

**§ 134. Inspectors ; their powers and duties.** — The commissioners of highways of the several towns and the trustees or other officers in the incorporated cities and villages of the state, who perform the duties of commissioners of highways in such cities and villages, shall be inspectors of plank-roads and turnpikes, in their respective towns, cities and villages. They shall personally inspect the whole of such turnpike or plank-road as lies in their respective towns, villages or cities, at least once in each month, and upon written complaint to them, or any of them, that any part of such road is out of repair they shall, without delay, view and examine the part complained of, and if it shall be found to be out of repair, or in condition not to be conveniently used by the public, they shall give written notice to the toll gatherer or person attending the gate nearest the place out of repair or in bad condition to cause the same to be put in good condition within forty-eight hours from the service of the notice, and in default thereof they shall order the toll-gates upon such road to be immediately thrown open until the road shall be fully repaired to the satisfaction of the inspector. The fees of the inspectors for such services shall be two dollars for each day actually employed, to be paid by the corporation or person whose road is so inspected, if they order the gates to be thrown open, but otherwise to be charged, audited and paid in the same manner as other fees of commissioners of highways. Any party aggrieved by the order of the inspectors may appeal therefrom to the county court of the

county in which that part of the order is situated within twenty days after service of the order by serving a notice of appeal upon one of the inspectors, and filing a copy thereof in the county clerk's office, and the appeal may be brought on for hearing upon a notice of not less than five days, and the county court shall always be open to hear the same, and upon hearing the proofs and allegations of the parties the court may affirm, reverse or modify the order. If the order requires the gates to be thrown open, they shall remain open during the pendency of the appeal. Any inspector who shall neglect to perform his duties as such inspector shall forfeit the sum of twenty-five dollars for each offense. Every keeper of a gate ordered to be thrown open not immediately obeying such order, or not keeping such gate open until a certificate permitting it to be closed shall be granted, or hindering or delaying any person in passing, or taking any tolls from any person passing such gate during the time it ought to be open, shall forfeit to the party aggrieved the sum of ten dollars for each offense, and the corporation owning the road, who shall refuse or neglect to obey the requirements of any such notice or order, shall forfeit to the people of the state the sum of two hundred dollars for each offense.

§ 135. **Change of route ; extension and branches.**—Any such corporation may, with the written consent of the owners of two-thirds of its capital stock and of a majority of the commissioners of highways of the town or towns, in which any change or extension is proposed to be made, construct branches to its main line or extend the same, or change the route of its road or any part thereof, and acquire the right of way for the same in the same manner as for the original or main line, and may, by any of its officers, agents or servants, enter upon lands for the purpose of making any examination, survey or map, doing no unnecessary damage ; but before entering upon, taking or using such lands, the corporation shall make a survey and map thereof, designating thereon the lands of each owner or occupant intended to be taken or used, which shall be signed and acknowledged by the engineer making the same and the president of the corporation and filed in the office of the clerk of the county in which the land is situated.

§ 136. **Mile-stones, guide-posts and hoist-gates.**—A mile-stone or post shall be erected and maintained by every such corporation on each mile of its road, on which shall be fairly and legibly marked or inscribed the distance of such stone or post from the place of commencement of the road, and when the road shall com-

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mence at the end of any other road having mile-stones or posts on which the distance from any city or town is marked, a continuation of that distance shall in like manner be inscribed. A guide-post shall also be erected at the intersection of every public road leading into or from every turnpike or plank-road, on which shall be inscribed the name of the place to which such intersecting road leads in the direction to which the name on the guide post shall point. No plank-road or turnpike corporation shall erect or put up any hoist-gate on its road. Any person who shall willfully break, cut down, deface or injure any mile-stone, post or gate on such road, or dig up, or injure any part of the road, or anything belonging thereto, shall forfeit to the corporation twenty-five dollars for every offense, in addition to the damages resulting from the act.

**§ 137. Location of office of corporation.**—Within two weeks after the formation of any such corporation its directors shall designate some place within a county in which its road or bridge, or some part thereof shall be constructed as its office, and shall give public notice thereof by publishing the same once in each week for three successive weeks in a public newspaper in the county, and shall file a copy of the notice in the office of the county clerk of every county in which any part of the road or bridge is, or is to be constructed, and if the location of such office shall be changed, like notice of the change shall be published and filed, in which shall be specified the time of making the change, before it shall take effect. Every notice, summons or other paper required by law to be served on the corporation may be served by leaving the same at such office with any person having charge thereof, at any time between nine o'clock in the forenoon, and five o'clock in the afternoon of any day except Sunday or a legal holiday.

**§ 138. Consolidation of corporations and sale of franchise.**—Any two or more of such corporations may consolidate into one corporation on such terms as the persons owning two-thirds of the stock of each corporation may agree upon, and may change the name of the road on filing in the office where the original certificates of incorporation were filed, a certificate containing the names of the roads so consolidated, and the name by which such road shall thereafter be known. Any plank-road or turnpike corporation may, with the consent of the owners of sixty per cent of its stock, sell, and convey the whole or any part of its rights, property and franchises to any other domestic plank-road or turnpike corporation, and such sale and conveyance shall vest the rights, property and franchises thereby trans-



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ferred in the corporation to which they are conveyed for the term of its corporate existence.

§ 139. **Surrender of road.**—The directors of any plank-road or turnpike corporation may abandon the whole or any part of its road at either or both ends thereof, upon obtaining the written consent of the stockholders, owning two-thirds of the stock of the corporation, which surrender shall be by a declaration in writing to that effect, attested by the seal of the corporation and acknowledged by the president and secretary. - Such declaration and consent shall be filed and recorded in the clerk's office of the county in which any part of the road abandoned shall be situated, and the road so abandoned shall cease to be the road or property of the corporation, and shall revert and belong to the several towns, cities and villages through which it was constructed, and the corporation shall no longer be liable to maintain it or to be assessed thereon, or permitted to collect tolls for traveling over the same, but without impairing its right to take toll on the remaining part of its road at the rate prescribed by law.

§ 140. **Taxation and exemption.**—So much of any bridge or toll-house of any bridge corporation as may be within any town, city or village, shall be liable to taxation therein as real estate. Toll-houses and other fixtures and all property belonging to any plank-road or turnpike corporation shall be exempt from assessment and taxation for any purpose until the surplus annual receipts of tolls on its road over necessary repairs and a suitable reserve fund for repairs or relaying of plank, shall exceed seven per cent per annum on the first cost of the road. If the assessors of any town, village or city and the corporation disagree concerning any exemption claim, the corporation may appeal to the county judge of the county in which such assessment is proposed to be made, who shall, after due notice to both parties, examine the books and vouchers of the corporation, and take such further proof as he shall deem proper, and decide whether such corporation is liable to taxation under this section, and his decision shall be final.

§ 141. **Hauling logs and timber.**—Any person who shall draw or haul or cause to be drawn or hauled, any logs, timber or other material upon the bed of any plank or turnpike road, unless the same shall be entirely elevated above the surface of the road on wheels or runners, and the road-bed shall be injured thereby, or who shall do or cause to be done any act by which the road-bed, or any ditch, sluice, culvert or drain appertaining to any turnpike or plank-road shall be injured or obstructed, or shall divert or cause to be diverted,

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any stream of water so as to injure or endanger any part of such road, shall forfeit to the corporation the sum of five dollars for every offense in addition to the damages resulting from the wrongful act.

§ 142. **Encroachment of fences.**—Whenever the president or secretary of any turnpike or plank-road corporation shall notify any inspector of such roads in the county where situated that any person is erecting or has erected any fence or other structure upon any part of the premises lawfully set apart for any such turnpike or plank-road, the inspector shall examine into the facts and order the fence or other structure to be removed if it shall appear to be upon any part of any such road, and any person neglecting or refusing to remove the same within twenty days or such further time not exceeding three months, as may be fixed by the inspector, shall forfeit to the corporation the sum of five dollars for every day, during which the fence or other structure shall remain upon such road, but no such order shall require the removal of any fence, previously erected, between the first day of December and the first day of April.

§ 143. **Penalty for fast driving over bridges.**—Any plank-road, turnpike or bridge corporation may put up and maintain at conspicuous places at each end of any bridge, owned or maintained by it, the length of whose span is not less than twenty-five feet, a notice with the following words in large characters: "One dollar fine for riding or driving over this bridge faster than a walk." Whoever shall ride or drive faster than a walk, over any bridge, upon which such notice shall have been placed, and shall then be, shall forfeit to the corporation the sum of one dollar for every such offense.

§ 144. **Acts of directors prohibited.**—No director of any such corporation shall be concerned, directly or indirectly, in any contract for making or working any road belonging to it during the time he shall be a director. No contractor for the making of such road, or any part thereof, shall make a new contract for the performance of his work, or any part of it, other than by hiring hands, teams, carriages or utensils to be superintended and paid by himself, unless such new contract and its terms be laid before the board of directors and be approved by them.

§ 145. **Actions for penalties.**—No action to recover any penalty against any turnpike or plank-road corporation, shall be commenced or maintained against it, or any of its officers or agents, unless commenced within thirty days after the penalty was incurred.

§ 146. **Proof of incorporation.**—In any action brought by or against any domestic turnpike or plank-road corporation, which shall

have been in actual operation, and in possession of a road upon which it has taken toll for five consecutive years, next preceding the commencement of the action, parol proof of such corporate existence and use shall be sufficient to establish the incorporation of the corporation, for all the purposes of the action, unless the opposing party shall set up a claim in his complaint or answer duly verified of title in himself to the road, or some part thereof stating the nature of his title, and right to the immediate possession and use thereof.

§ 147. **When stockholders to be directors.**—When the whole number of stockholders in any turnpike or plank-road corporation shall not exceed the number of directors specified in the certificate of incorporation, each stockholder shall be a director of such corporation, and the stockholders shall constitute the board of directors, whatever may be their number, and a majority thereof shall be a quorum for the transaction of business.

§ 148. **Dissolution of corporation.**—Every turnpike, plank-road or bridge corporation may be dissolved by the legislature when, by the income arising from tolls, it shall have been compensated for all moneys expended in purchasing, making, repairing and taking care of its road, and have received in addition thereto an average annual interest at the rate of ten per cent, and on such dissolution all the rights and property of the corporation shall vest in the people of the state. Any such corporation, which shall not within two years from the filing of its certificate of incorporation, have commenced the construction of its road or bridge and actually expended thereon ten per cent of its capital, or which shall not within five years from such filing have completed its road or bridge, or, in case such bridge is destroyed, shall not rebuild the same within five years, or which, for a period of five consecutive years shall have neglected or omitted to exercise its corporate functions shall be deemed dissolved. Where the corporation has neglected or omitted for five years to exercise its corporate functions, and its road-bed or right of way shall have been used as a public highway for that period, or where any such corporation shall have become dissolved, or where the road or any part of it of a turnpike or plank-road corporation, or the bridge of any bridge corporation, shall have been discontinued, such road-bed or right of way, and such discontinued road or bridge, and the road or bridge of any such dissolved corporation, shall thereafter be a public highway, with the same effect as if laid out by the commissioners of highways of the town, and be subject to the laws relating to highways and the erection, repairing and preservation of bridges thereon.



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§ 149. **Towns must pay for lands not originally a highway.**—When the corporate existence of any plank-road or turnpike corporation shall have ceased by limitation of time, or where any judgment of ouster or dissolution, or restraining the exercise of its franchise has been rendered in any action against it, such portion of the line of its road as was built over lands which were originally purchased by it and not previously a public highway shall not be used as a public highway, nor be taken possession or control of by the town in which the same may be, or by any of the authorities thereof or be claimed or worked or used as a public highway until the town shall pay over to the treasurer, receiver or other legal representatives of the corporation, or its assigns, the principal sum of the amounts paid by it for such lands, as shown by the deeds of conveyance thereof to it, and every such judgment shall provide accordingly. Such payments shall be made within three months after the expiration of the corporate existence of the corporation, or if any such judgment has been or shall be rendered within three months after service of written notice of the entry thereof on the supervisor of the town, and the person receiving such payment shall execute a proper discharge therefor and a conveyance to the town of all the title and interest which the corporation had in such lands at the expiration of its corporate existence.

§ 150. **Highway labor upon line of plank-road or turnpike.**—Every person liable for highway labor living or owning property on the line of any plank-road or turnpike may, on written application to the commissioners of highways of the town, on any day previous to making out the highway warrant by the commissioners, be assessed for the highway labor upon his property upon the line of such road, in the discretion of the commissioners to be worked out upon the line of such road as a separate road district, and the commissioners shall make a separate list of the persons and property so assessed, as for a separate road district, and deliver the same to one of the directors of the corporation owning such road, who shall cause such highway labor to be worked out on such road in the same manner that overseers\* of highways are required to do, and such directors shall possess the powers and have the authority to compel the performance of such highway labor or the payment of the tax therefor as such overseers\* now have by law, and shall make like returns to the commissioner of highways, and any person so assessed may commute for the highway labor assessed upon him or his property

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\* So in the original.

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by paying the sum now fixed by law as the commutation for such highway labor.

§ 151. **Extension of corporate existence.**—No turnpike, plank-road or bridge corporation shall extend its corporate existence, pursuant to the provisions of the general corporation law, without the written consent of the persons owning at least two-thirds of its capital stock, nor without the consent of the board of supervisors of each county in which any part of its road or bridge is situated, which consent shall be given by a resolution of the board adopted at any regular or special meeting, and a copy of such resolution, certified by the clerk of the board, or verified by the affidavit of some member thereof, together with such consent of the stockholders, and a statement verified by the affidavit of the president and treasurer of the corporation, showing the actual capital expended upon the construction of the road, exclusive of repairs, the name of each town or ward through or into which the road passes, and, if any part of the road shall have been abandoned, the actual cost of the remaining part, exclusive of repairs, shall be filed with the certificate of the continuance of the corporate existence. No further abandonment of any road belonging to a corporation whose corporate existence has been so extended shall be made, except with the consent of a majority of the board of supervisors of the county in which the abandoned portion of the road may lie, which consent shall be filed in the office of the clerk of the county.

## ARTICLE X.

### MISCELLANEOUS PROVISIONS.

SECTION 160. Laws repealed.

161. Saving clause.

162. Construction.

163. When to take effect.

SECTION 160. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

§ 161. **Saving clause.**—The repeal of a law or any part of it specified in the annexed schedule shall not affect or impair any act done, or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to May first, eighteen hun-

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dred and ninety-one, under or by virtue of any law so repealed, but the same may be asserted, enforced, prosecuted or inflicted, as fully and to the same extent, as if such law had not been repealed; and all actions and proceedings civil or criminal, commenced under or by virtue of the laws so repealed and pending on April thirtieth, eighteen hundred and ninety-one, may be prosecuted and defended to final effect, in the same manner as they might under the laws then existing, unless it shall be otherwise specially provided by law.

§ 162. Construction.—The provisions of this chapter, so far as they are substantially the same as those of laws existing on April thirtieth eighteen hundred and ninety-one, shall be construed as a continuation of such laws, modified or amended according to the language employed in this chapter, and not as new enactments; and references in laws not repealed to provisions of laws incorporated into this chapter and repealed shall be construed as applying to the provisions so incorporated, and nothing in this chapter shall be construed to amend or repeal any provision of the Criminal or Penal Code.

§ 163. When to take effect.—This chapter shall take effect on May first, eighteen hundred and ninety-one.

SCHEDULE OF LAWS REPEALED.

Revised Statutes.... Part I, chap. 18, title I.... All.

LAWS OF	Chapter	Sections.
1836.....	284.....	All.
1838.....	262.....	All.
1847.....	210.....	All.
1847.....	287.....	All.
1847.....	398.....	All.
1848.....	37.....	All.
1848.....	45.....	All.
1848.....	265.....	All.
1848.....	259.....	All.
1848.....	360.....	All.
1849.....	250.....	All.
1849.....	362.....	All.
1850.....	71.....	All, except the
1851.....	107.....	All. [first section.
1851.....	487.....	All.
1851.....	98.....	All.
1852.....	228.....	All.
1852.....	372.....	All.
1853.....	124.....	All.
1853.....	135.....	All.

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LAWS OF	Chapter	Sections.
1853.....	245.....	All.
1853.....	471.....	All.
1853.....	626.....	All.
1854.....	3.....	All.
1854.....	87.....	All.
1854.....	232.....	All.
1855.....	300.....	All.
1855.....	485.....	All.
1855.....	546.....	All.
1855.....	559.....	All.
1857.....	83.....	All.
1857.....	202.....	All.
1857.....	643.....	All.
1858.....	10.....	All.
1859.....	209.....	All.
1859.....	311.....	All.
1860.....	116.....	All.
1861.....	215.....	All.
1861.....	238.....	All.
1862.....	205.....	All.
1862.....	248.....	All.
1862.....	425.....	All.
1865.....	691.....	All.
1865.....	780.....	All.
1866.....	780.....	All.
1867.....	419.....	All.
1867.....	974.....	All.
1868.....	253.....	All.
1869.....	234.....	All.
1870.....	443.....	All.
1870.....	568.....	All.
1871.....	95.....	All.
1872.....	128.....	All.
1872.....	283.....	All.
1872.....	374.....	All.
1872.....	779.....	All.
1872.....	780.....	All.
1873.....	440.....	All.
1873.....	737.....	All.
1875.....	4.....	All.
1875.....	120.....	All.
1875.....	319.....	All.
1875.....	445.....	All.
1876.....	135.....	All.
1876.....	373.....	All.
1876.....	415.....	All.
1876.....	435.....	All.
1877.....	164.....	All.
1878.....	203.....	All.

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LAWS OF	Chapter	Sections.
1878.....	394.....	All.
1879.....	214.....	All.
1879.....	253.....	All.
1879.....	377.....	All.
1879.....	441.....	All.
1879.....	512.....	All.
1880.....	90.....	All.
1880.....	484.....	All.
1881.....	77.....	All.
1881.....	117.....	All.
1881.....	213.....	All.
1881.....	311.....	All.
1881.....	313.....	All.
1881.....	337.....	All.
1881.....	464.....	All.
1881.....	674.....	All.
1882.....	289.....	All.
1883.....	216.....	All.
1883.....	323.....	All.
1883.....	409.....	All.
1883.....	482.....	All.
1883.....	483.....	All.
1883.....	497.....	All.
1884.....	386.....	All.
1885.....	153.....	All.
1885.....	141.....	All.
1885.....	422.....	All.
1885.....	423.....	All.
1886.....	248.....	All.
1886.....	321.....	All.
1886.....	322.....	All.
1887.....	570.....	All.
1888.....	462.....	All.
1889.....	369.....	All.

# THE HIGHWAY LAW.

BEING CHAPTER 568 OF THE LAWS OF 1890, AS AMENDED BY CHAP.  
812 OF THE LAWS OF 1891, AND BY CHAP. 686  
OF THE LAWS OF 1892.

AN ACT in relation to highways, constituting chapter nineteen of  
the general laws.

## CHAPTER NINETEEN OF THE GENERAL LAWS

### THE HIGHWAY LAW.

ARTICLE I.—Highway officers, their general powers and duties. (§§ 1–24).

II.—Assessment for highway labor. (§§ 30–53).

III.—The duties of overseers of highways, and the performance of highway labor. (§§ 60–73).

IV.—Laying out, altering and discontinuing highway and laying out private roads. (§§ 80–123).

V.—Bridges. (§§ 130–145).

VI.—Miscellaneous provisions. (§§ 150–164).

VII.—The regulation of ferries. (§§ 170–174).

VIII.—Repealing and other clauses. (§§ 180–183).

### ARTICLE I.

#### HIGHWAY OFFICERS, THEIR GENERAL POWERS AND DUTIES.

SECTION 1. Short title.

2. Treasurer of highway commissioners
3. Powers of one commissioner.
4. General powers of commissioners.
5. Mile-stones and guide-boards.
6. Road machines and implements.
7. Stone-crushers and materials.
8. Custody of stone-crushers.
9. Additional tax.
10. Extraordinary repairs of highways or bridges.
11. Auditing expense thereof.
12. Accounts, how made out.
13. Unsafe toll-bridge.
14. Water pipes in highways.
15. Actions for injuries to highways.
16. Liability of towns for defective highways.
17. Action by town against commissioners.
18. Audit of damages without action.



**SECTION 19.** Reports of commissioners.

20. General duties of overseers.

21. Opening obstructed highways.

22. Penalties against overseers.

23. Penalties, how collected.

24. Compensation of overseers.

**SECTION 1. Short title.**— This chapter shall be known as the highway law.

**§ 2. Treasurer of highway commissioners.**— When there is more than one commissioner of highways in any town, they shall designate one of their number to be treasurer. If they fail so to do, the commissioner longest in office shall be the treasurer; and all money collected for highway purposes, or belonging to the highway fund of the town, shall be paid to him. Before receiving such money, he shall execute to the town an undertaking, to be approved by the supervisor, to the effect that he will faithfully account and pay over to any officer or person entitled thereto, any money that may come into his hands as such treasurer.

**§ 3. Powers of one commissioner.**— When any town has but one commissioner of highways, the term, commissioners of highways, when used in this chapter, shall mean such one commissioner.

**§ 4. General powers of commissioner.**— The commissioners of highways in the several towns, shall have the care and superintendence of the highways and bridges therein, except as otherwise specially provided in relation to incorporated villages, cities and other localities; and they shall

1. Cause such highways and bridges to be kept in repair, and give the necessary directions therefor;

2. Cause such highways as shall have been laid out, but not sufficiently described, and such as shall have been used for twenty years, but not recorded, to be ascertained, described and entered of record in the town clerk's office;

3. From time to time, not oftener than once a year, divide the town into so many highway districts as they shall judge convenient, by writing, under their hands, to be filed with the town clerk, and by him to be entered in the town book, at least ten days before an annual town meeting;

4. Assign to each of the highway districts such of the inhabitants and corporations liable to work on highways, as they shall think proper, having regard to proximity of residence as much as may be;

5. Within one week after each annual town meeting, make and file

with the town clerk, a written appointment of a resident of each district, to be overseer of highways therein. The town clerk shall notify each overseer of his appointment, within ten days after the filing thereof; and the person so appointed and notified, shall thereupon become and be the overseer of highways within his district for one year, and until his successor shall be appointed. If any person so appointed overseer, shall refuse to serve, or his office shall become vacant, the commissioners shall in like manner appoint some other person to be overseer;

6. Require overseers of highways to warn all persons and corporations assessed to work on highways, to come and work thereon, with such teams and implements, and at such times as the said commissioners, or any of them shall direct;

7. Expend all moneys raised and collected from the town at large for highway purposes, upon the highways and bridges situated in, or upon the borders of the town, or highway districts assigned to the town in which such moneys were raised and collected, in such proportion as they may deem just and proper.

8. Have power to enter upon the lands of any person adjoining any of the rivers, streams or creeks of the state, drive spiles, throw up embankments, and perform such other labor as may be necessary upon the banks of such rivers, streams or creeks for the purpose of keeping them or any of them within their proper channels and preventing their encroachment upon any of the highways of the state, and to protect such highways and the property of the town from damages by reason of such rivers, streams or creeks washing away their embankments, or changing the location of the channels, and to agree with the owner of any such lands upon the amount of damages, if any, sustained by him in consequence of such entry upon his lands and the performance of the work herein authorized, and the amount of the damages so agreed upon shall be a town charge, and shall be audited and paid in the same manner as other town charges. If the commissioners are unable to agree with such owner upon the amount of damages thus sustained, the amount thereof shall be ascertained and determined and paid in the same manner as damages for the laying out and opening of highways are required by law to be ascertained, determined and paid, where the commissioners and land owner are unable to agree upon the amount thereof. [*This subdivision added by L. 1891, chap. 212.*]

§ 5. Mile-stones and guide-boards.—Commissioners of highways may cause mile-boards or stones, to be erected upon the high-

ways in their town as they think proper ; they shall also cause guide-posts, with proper inscriptions and devices, to be erected at the intersections of such highways therein, as they may deem necessary, which shall be kept in repair, at the expense of the town, by the overseers of the highways of the districts in which they are respectively located.

**§ 6. Road machines and implements.**—Commissioners of highways may, upon the request of one or more overseers of the highway districts of their town, contract for and purchase for such district or districts, upon credit or otherwise, a good and sufficient iron or steel shod scraper, road machine and plow, or either of them, for the use of such district or districts, which shall be used, cared for and owned by such district or districts jointly. Such implements shall be paid for out of the highway tax of the district or districts, for which they are purchased, and may be paid for, in annual installments, not exceeding five. If purchased for more than one district, the amount paid by each, shall be in proportion to the amount of its highway tax. No more than one-half of the highway tax of any district shall be applied in payment therefor in any one year. The portion of such tax so applied, shall be required to be paid in money, and be assessed and levied upon the property of such district or districts, and collected in the same manner as other town charges are assessed, levied and collected, except that the amount thereof shall be put in a separate column upon the tax roll, and the board of supervisors of the county shall cause the sum as certified by the town board, to be levied upon the taxable property of such highway districts.

**§ 7. Stone-crushers and materials.**—The commissioners of highways of any town may, when authorized by a majority vote of the electors voting thereon, by ballot, at the annual or at a special town meeting, purchase a machine for crushing stone, to be used for the improvement of the highways of the town, and when so authorized, may also expend a sum not exceeding two thousand dollars in any one year, for the purpose of purchasing stone, and quarrying, breaking, crushing and placing the same on the highways, and defraying the expenses of operating such machine ; and shall present the account and vouchers for such purchases and expenses to the town board for audit, and the amount audited shall be levied and collected as other town audits.

**§ 8. Custody of stone-crushers.**—Such machine, when purchased, shall be under the care and custody of the commissioners of

highways of the town; and where there is an incorporated village constituting a separate highway district, in any town, they may, by an agreement with the trustees of the village, permit an equitable use of the machine to such separate village district.

§ 9. **Additional tax.**—Whenever the commissioners of highways of any town shall determine, that the sum of five hundred dollars will be insufficient to pay the expenses actually necessary for the improvement of highways and bridges, they may cause a vote to be taken by ballot at any town-meeting, to be duly called, authorizing such additional sum to be raised as they may deem necessary for such purpose, not exceeding one-third of one per centum upon the taxable property of the town, as shown by the last assessment-roll thereof.

§ 10. **Extraordinary repairs of highways or bridges.**—If any highway or bridge shall at any time be damaged or destroyed by the elements or otherwise, the commissioner of highways of the town in which such highway or bridge may be situated, may, with the consent of the town board, cause the same to be immediately repaired or rebuilt, although the expenditure of money required may exceed the sum raised, or authorized to be raised, for such purposes as hereinbefore provided; and the commissioners of highways shall present the proper vouchers for the expenses thereof, to the town board, at their next annual meeting, and the same shall be audited by them and collected in the same manner as amounts voted at town-meetings.

§ 11. **Auditing expense thereof.**—The town board may be convened in special sessions by the supervisor, or in his absence, by the town clerk, upon the written request of any commissioners of highways, and the bills and expenses incurred in the erection or repairs of any such highways or bridges, may then be presented to, and audited by the town board; and the supervisor and town clerk shall issue a certificate, to be subscribed by them, setting forth the amount so audited and allowed, and in whose favor, and the nature of the work done and material furnished, and such certificate shall bear interest from its date, and the amount thereof, with interest, shall be levied and collected in the same manner as other town expenses.

§ 12. **Accounts, how made out.**—No account for services rendered, or material furnished according to the provisions of this chapter, shall be allowed by such board, unless the same shall be verified in the same manner as town accounts are required by law to be verified, nor unless the commissioners of highways shall certify

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§§ 149-150 THE TRANSPORTATION CORPORATIONS LAW. Ch. 40, G. L.

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§ 149. Towns must pay for lands not originally a highway.— When the corporate existence of any plank-road or turnpike corporation shall have ceased by limitation of time, or where any judgment of ouster or dissolution, or restraining the exercise of its franchise has been rendered in any action against it, such portion of the line of its road as was built over lands which were originally purchased by it and not previously a public highway shall not be used as a public highway, nor be taken possession or control of by the town in which the same may be, or by any of the authorities thereof or be claimed or worked or used as a public highway until the town shall pay over to the treasurer, receiver or other legal representatives of the corporation, or its assigns, the principal sum of the amounts paid by it for such lands, as shown by the deeds of conveyance thereof to it, and every such judgment shall provide accordingly. Such payments shall be made within three months after the expiration of the corporate existence of the corporation, or if any such judgment has been or shall be rendered within three months after service of written notice of the entry thereof on the supervisor of the town, and the person receiving such payment shall execute a proper discharge therefor and a conveyance to the town of all the title and interest which the corporation had in such lands at the expiration of its corporate existence.

§ 150. Highway labor upon line of plank-road or turnpike.— Every person liable for highway labor living or owning property on the line of any plank-road or turnpike may, on written application to the commissioners of highways of the town, on any day previous to making out the highway warrant by the commissioners, be assessed for the highway labor upon his property upon the line of such road, in the discretion of the commissioners to be worked out upon the line of such road as a separate road district, and the commissioners shall make a separate list of the persons and property so assessed, as for a separate road district, and deliver the same to one of the directors of the corporation owning such road, who shall cause such highway labor to be worked out on such road in the same manner that overseers\* of highways are required to do, and such directors shall possess the powers and have the authority to compel the performance of such highway labor or the payment of the tax therefor as such overseers\* now have by law, and shall make like returns to the commissioner of highways, and any person so assessed may commute for the highway labor assessed upon him or his property

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\* So in the original.

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CH. 40, G. L. THE TRANSPORTATION CORPORATIONS LAW. §§ 151-161

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by paying the sum now fixed by law as the commutation for such highway labor.

§ 151. **Extension of corporate existence.**—No turnpike, plank-road or bridge corporation shall extend its corporate existence, pursuant to the provisions of the general corporation law, without the written consent of the persons owning at least two-thirds of its capital stock, nor without the consent of the board of supervisors of each county in which any part of its road or bridge is situated, which consent shall be given by a resolution of the board adopted at any regular or special meeting, and a copy of such resolution, certified by the clerk of the board, or verified by the affidavit of some member thereof, together with such consent of the stockholders, and a statement verified by the affidavit of the president and treasurer of the corporation, showing the actual capital expended upon the construction of the road, exclusive of repairs, the name of each town or ward through or into which the road passes, and, if any part of the road shall have been abandoned, the actual cost of the remaining part, exclusive of repairs, shall be filed with the certificate of the continuance of the corporate existence. No further abandonment of any road belonging to a corporation whose corporate existence has been so extended shall be made, except with the consent of a majority of the board of supervisors of the county in which the abandoned portion of the road may lie, which consent shall be filed in the office of the clerk of the county.

## ARTICLE X.

### MISCELLANEOUS PROVISIONS.

SECTION 160. Laws repealed.

161. Saving clause.

162. Construction.

163. When to take effect.

SECTION 160. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

§ 161. **Saving clause.**—The repeal of a law or any part of it specified in the annexed schedule shall not affect or impair any act done, or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to May first, eighteen hun-



the negligence or misconduct of the commissioner, against whom such judgment shall have been recovered.

**§ 19. Reports of commissioners.**—The commissioners of highways of each town shall make to the town board, at its first meeting in each year, a written report stating,

1. The labor assessed and performed,
2. The sum received by them for penalties, commutations and all other sources, and an itemized account of all moneys paid out during the year, with receipts in full by the respective parties to whom such money was paid;
3. The improvements which have been made on the highways and bridges, during the year immediately preceding such report, and the state of such highways and bridges; they shall also make at the second meeting of said board in each year, a statement of the improvements necessary to be made on such highways and bridges, and an estimate of the probable expense thereof, beyond what the labor to be assessed in that year will accomplish; a duplicate of which shall be delivered by the commissioners to the supervisor of the town, who shall present such duplicate statement to the board of supervisors, who shall cause the amount so estimated, not exceeding five hundred dollars in any one year, to be assessed, levied and collected, in such town, in the same manner as other town charges.

**§ 20. General duties of overseers.**—Each overseer of highways in every town, shall

1. Repair and keep in order the highways within his district.
2. Warn all persons and corporations assessed to work on the highways in his district, to come and work thereon.
3. Cause the noxious weeds within the bounds of the highway within his district, to be cut down or destroyed twice in each year, once before the first day of July, and again before the first day of September; and the requisite labor therefor shall be considered highway work.
4. Collect all fines and commutation money, and execute all lawful orders of the commissioners.
5. Cause all loose stones lying on the beaten track of every highway within his district, to be removed once in every month, from the first day of April until the first day of December.
6. Cause the monuments erected or to be erected, as the boundaries of highways, to be kept up and renewed, so that the extent of such highway boundaries may be publicly known.

**§ 21. Opening obstructed highways.**—Whenever the labor in

any district has been worked out, commuted for, or returned to the supervisor, and the highways are obstructed by snow, or otherwise, and notice has been given to the overseer, in writing, by any two or more inhabitants of the town, liable to payment of highway tax, requesting the removal of such obstruction, the overseer of highways in such district, shall immediately call upon all persons and corporations liable to highway tax therein, to assist in removing such obstructions; and such labor, so called for by the overseer, shall be assessed upon those liable to perform the same, in proportion to their original assessments. And all persons so called out and failing to appear at the place designated by the overseer, or to commute at a dollar a day, within twenty-four hours after due notice, shall be liable to a fine at the rate of one dollar and fifty cents a day, for each day's labor they may be required to perform, which fine shall be collectible by the overseer, as such, by action in justice's court, and shall be applied to the purposes specified in this section. The overseer shall be liable to a penalty of five dollars per day, for every day he neglects, without good and sufficient reasons, to have such highway opened without delay after receiving such written notice, the penalty to be collected in justice's court, by the person first suing for the same, and the penalty shall be paid over to the commissioners of highways, for the use of the town.

**§ 22. Penalties against overseers.**—Every overseer of highways who shall refuse or neglect,

1. To warn the persons and corporations assessed to work on the highways, when he shall have been required so to do, by the commissioners or either of them.

2. To collect the moneys that may arise from fines or commutations.

3. To perform any of the duties required by this chapter, or which may be enjoined on him by the commissioners of highways of his town, and for the omission of which no other penalty is provided, shall for every such refusal or neglect, forfeit the sum of ten dollars.

**§ 23. Penalties, how collected.**—The commissioners of highways shall prosecute, in the name of the town, every overseer of highways, for any penalties known to the commissioners to have been incurred by the overseer. They shall also upon the complaint of any resident of the town, that any such penalty has been incurred, prosecute such overseer therefor, if satisfied that the complaint is well founded. The costs and expenses incurred by the commissioners in good faith,

in such proceedings, shall be a town charge, to be audited by the town board. If the commissioners refuse or neglect to prosecute for any such penalty, for thirty days after such complaint shall have been made, the complainant may prosecute therefor in the name of the town, upon indemnifying the town for the costs and expenses of such prosecution, in such manner as the supervisor may approve. If the commissioner shall neglect or refuse to prosecute for any such penalty, knowing that the same has been incurred, he shall be liable to a penalty of ten dollars for every such neglect or refusal, to be recovered by action, in the name of the town, brought by the supervisor, or by any taxpayer of the town who may indemnify the town, for the costs and expenses of the action, in such manner as the supervisor may approve.

§ 24. **Compensation of overseers.**—If any overseer shall be employed more days in executing the several duties enjoined upon him by this chapter, than he is assessed to work on the highways, he shall be paid for the excess, at the rate of twelve and a half cents per hour for each day, and be allowed to retain the same out of the money which may come into his hands under this chapter; but he shall not be permitted to commute for the days he is assessed.

## ARTICLE II.

### ASSESSMENT FOR HIGHWAY LABOR.

#### SECTION 80. Meetings of commissioners.

81. Lists of inhabitants.
82. Non-resident lands.
83. Assessments of highway labor, how made.
84. Copies of lists delivered to overseers.
85. Names omitted.
86. Appeals by non-residents.
87. Credit on private roads.
88. Certain assessments to be separate.
89. Tenant to deduct assessment.
40. Reassessment in case of neglect.
41. Omissions of assessors corrected.
42. New assessments by overseers.
43. Sidewalks and trees.
44. Abatement of tax for shade trees.
45. Sidewalk tax anticipated.
46. Certificate of anticipation.
47. Transfer of certificate.
48. Abatement of tax for watering trough.
49. System of taxation defined.
50. Town may change its system.

SECTION 51. Vote thereon.

52. When change to take effect.

53. Annual tax thereunder.

**SECTION 30. Meetings of commissioners.**—The commissioners of highways of each town shall meet within eighteen days after the annual town-meeting, at the town clerk's office, on such day as they shall agree upon, and afterwards at such other times and places as they shall think proper.

**§ 31. Lists of inhabitants.**—Each of the overseers of highways shall deliver to the clerk of the town, within sixteen days after his appointment, a list subscribed by him, of the names of all the inhabitants in his highway district, who are liable to work on the highways; and the town clerk shall deliver such lists to the commissioners of highways.

**§ 32. Non-resident lands.**—The commissioners of highways in each town, before making the assessment of highway labor, shall make out a list and statement, of the contents of all unoccupied lots, pieces or parcels of land within the town, owned by non-residents; every lot so designated, shall be described in the same manner as is required from assessors, and its value shall be set down opposite to the description; such value shall be the same as was affixed to the lot in the last assessment-roll of the town; and if such lot was not separately valued in such roll, then in proportion to the valuation which shall have been affixed to the whole tract, of which such lot shall be a part.

**§ 33. Assessments of highway labor, how made.**—The commissioners of highways shall, at their first or some subsequent meeting, ascertain, assess and apportion the highway labor to be performed in their town, in the then ensuing year, as follows:

1. The whole number of days work to be assessed in each year, shall be ascertained, and shall be at least three times the number of taxable inhabitants in the town.

2. Every male inhabitant being above the age of twenty-one years (excepting all honorably discharged soldiers and sailors who lost an arm or leg in the service of the United States, during the late war, or who are unable to perform manual labor by reason of injuries received, or disabilities incurred in such service, persons seventy years of age, clergymen and priests of every denomination, paupers, idiots and lunatics), shall be assessed at least one day.

3. The residue of such days work, shall be apportioned and assessed upon the estate, real and personal, of every inhabitant of the

town, including corporations liable to taxation therein, as the same shall appear by the last assessment-roll of the town, and upon each tract or parcel of land owned by non-residents of the town contained in the list made by the commissioners, excepting such as are occupied by an inhabitant of the town, which shall be assessed to the occupant. The assessment of labor for personal property, must be in the district in which the owner resides, and real property in the district where it is situated, except that the assessment of labor upon the property of corporations, may be in any district or districts of the town, and such labor may be worked out or commuted for, as if the corporation were an inhabitant of the district; but the real property within an incorporated village or city, exempted from the jurisdiction of the commissioners of highways of the town, and personal property of an inhabitant thereof, shall not be assessed for highway labor by the commissioners of highways of the town. Whenever the assessors of any town shall have omitted to assess any inhabitant, corporation or property therein, the commissioners of highways shall assess the same, and apportion the highway labor as above provided.

4. The commissioners shall affix to the name of each person named in the lists furnished by the overseers, and of assessable corporations, and to the description of each tract or parcel of land contained in the list prepared by them of non-resident lands, the number of days which such person or tract shall be assessed for highway labor, as herein directed, and the commissioners shall subscribe such lists, and file them with the town clerk.

5. If the commissioners of highways shall neglect for one year, after any highway shall have been laid out, and title thereto acquired, to open or work the same, or any part thereof, and any inhabitant or corporation of the town, in or through which the highway runs, shall give ten days notice to the commissioners of the town, that they desire to apply the whole or any part of their highway labor to the working of such highway, the commissioners shall assign such inhabitants and corporations to such highway district, direct the highway labor for which they are annually assessed to be applied to the same, and cause the same to be worked and put in good order for vehicles and travelers within one year, under the direction of any such inhabitants whom such commissioners may appoint as an overseer of the labor so to be applied to such highway; and when the number of days labor assessed in the current year to such inhabitants, as the annual highway tax, is not sufficient to put such highway in good order, the inhabitants and corporations may anticipate the whole or

any part of the highway labor assessed, and to be assessed against them, for a period not exceeding three years, but from no one of the districts of the town shall more than one-half of its annual labor be taxed and applied to any highway not embraced in such district.

§ 34. **Copies of list delivered to overseers.**—The commissioners of highways shall direct the clerk of the town to make copies of such lists, and shall subscribe such copies, after which they shall cause the several copies to be delivered to the respective overseers of highways of the several districts in which the highway labor is assessed, and the acceptance of the list by any overseer to whom the same may be delivered, shall be deemed conclusive evidence of his acceptance of the office of overseer.

§ 35. **Names omitted.**—The names of persons or corporations omitted from any such list, and of new inhabitants, shall from time to time be added to the several lists, and they shall be assessed by the overseers in proportion to their real and personal estate to work on the highways as others assessed by the commissioners on such lists, subject to an appeal to the commissioners of highways.

§ 36. **Appeals by non-residents.**—Whenever any non-resident owner of unoccupied lands shall conceive himself aggrieved by any assessment of any commissioner of highways, such owner, or his agent, may, within thirty days after such assessment, appeal to the county judge of the county in which such land is situated, who shall, within twenty days thereafter, hear and decide such appeal, the owner or agent giving notice to the commissioners of highways of the time of the hearing before the judge, and his decision thereupon shall be final and conclusive.

§ 37. **Credit on private roads.**—The commissioners of highways of each town shall credit to such persons as live on private roads and work the same, so much on account of their assessments as the commissioners may deem necessary to work such private road, or shall annex the private roads to some of the highway districts.

§ 38. **Certain assessments to be separate.**—Whenever the commissioners of highways shall assess the occupant, for any land not owned by such occupant, they shall distinguish in their assessment lists, the amount charged upon such land, from the personal tax, if any, of the occupant thereof; but when any such land shall be assessed in the name of the occupant, the owner thereof shall not be assessed during the same year to work on the highways, on account of the same land.

§ 39. **Tenant to deduct assessment.**—Whenever any tenant of



any land for a less term than twenty-five years, shall be assessed to work on the highways for such land, and shall actually perform such work, or commute therefor, he shall be entitled to a deduction from the rent due, or to become due from him for such land, equal to the full amount of such assessment, estimating the same at the rate of one dollar per day, unless otherwise provided for by agreement between the tenant and his landlord.

**§ 40. Reassessment in case of neglect.**—If it shall appear from the annual return of any overseer of highways, that any person or corporation who was assessed to work on the highways (other than non-residents), has neglected to work the whole number of days assessed, and has not commuted for, or otherwise satisfied such deficiency, the commissioners of highways shall reassess the deficiency to the person so delinquent, at the next assessment for work for highway purposes, and add to it his annual assessment; such reassessment shall not exonerate any overseer of highways from any penalty which he may have incurred under the provisions of this chapter.

**§ 41. Omissions of assessors corrected.**—Whenever the assessors of any town shall have omitted to assess any inhabitant or property in their town, the commissioners of highways shall assess the persons and property so omitted, and shall apportion highway labor upon such persons or property, in the same manner as if they had been duly assessed upon the last assessment-roll.

**§ 42. New assessments by overseers.**—When the quantity of labor assessed on the inhabitants of any district by the commissioners of highways, shall be deemed insufficient by the overseer of the district to keep the highways therein in repair, such overseer shall make another assessment on the actual residents of the district, in the same proportion, as near as may be, and not exceeding one-third of the number of days assessed in the same year by the commissioners, on the inhabitants of the district; and the labor so assessed by an overseer, shall be performed or commuted for in like manner, as if the same had been assessed by commissioners of highways.

**§ 43. Sidewalks and trees.**—The commissioners of highways may, by an order in writing duly certified by a majority of them, authorize the owners of property adjoining the highways, at their own expense, to locate and plant trees, and locate and construct sidewalks along the highways in conformity with the topography thereof, which order, with a map or diagram showing the location of the

sidewalk and tree planting, certified by the commissioners, shall be filed in the office of the clerk of the town where the highway is located, within ten days after the making of the order.

\*(R. S., p. 1400 ; post, p. 917.)\*

**§ 44. Abatement of tax for shade trees.**—Any inhabitant liable to highway tax, who shall hereafter, pursuant to such an order, transplant by the side of the highway adjoining his premises, any forest shade trees, fruit trees, or any nut bearing trees, suitable for shade trees, shall be allowed by the overseers of highways, or other officer having charge of the highway, in abatement of his highway tax, one dollar for every four trees set out ; but all trees must have been set out the year previous to such allowance, and be living and well protected from animals at the time of the allowance, and not further than eight feet from the outside line of any highway three rods wide, and not more than one additional foot further therefrom, for each additional rod in width of highway, and not less than seventy feet apart, on the same side of the highway, if elms, or fifty feet, if other trees ; trees transplanted by the side of the highway, in place of trees which have died, shall be allowed for in the same manner. Such abatement of highway tax to any person, shall not exceed one-quarter of his annual highway tax in any one year ; but such abatement shall be allowed by the overseers of highways, or other officers having charge of the highway, annually, until it shall have equalled the whole number of trees set out, at the rate herein specified.

**§ 45. Sidewalk tax anticipated.**—The commissioners of highways of any town, may, upon the written application of a majority of the inhabitants in any highway district, subject to assessment for highway labor therein, authorize not more than one-quarter of the highway labor of the district, or of the commutation money received therefor, to be expended under the direction of the overseer of highways of the district, in the construction, repairs and improvement of any sidewalks within the limits of the district, and may by writing signed by them, filed with the town clerk, authorize not more than one-fourth of the highway labor of the district, to be anticipated for not more than three years, for constructing, improving or repairing any such sidewalks ; and thereupon any person or corporation, assessed for highway labor in the district, may, for such purpose, anticipate his or its assessment for highway labor for the term prescribed by the commissioners, and may perform such labor,

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\* So in the original.

under the direction of the overseer within such time, or commute therefor.

§ 46. **Certificate of anticipation.**—The overseer shall give to such person or corporation, upon the performance of such labor or commutation therefor, a certificate signed by him, showing the number of days labor so anticipated and worked, or commuted for by such person or corporation; and in each succeeding year, upon presentation of such certificate, the person or corporation shall be credited and allowed by the overseer of highways, with the performance of the number of days labor assessed for such year, until the credit shall equal the number of days stated in the certificate to have been anticipated, and shall indorse thereon a statement signed by him, showing the credit and allowance.

§ 47. **Transfer of certificate.**—Such certificate may be transferred to any grantee, upon a voluntary grant of the real property upon which such highway labor is assessable, and if such real property is transferred otherwise than by voluntary grant, it shall be deemed to have been transferred to the person succeeding thereto, and in the hands of any such transferee, it shall have the same effect as when held by the original owner.

§ 48. **Abatement of tax for watering trough.**—The commissioners of highways shall annually abate three dollars from the highway tax of any inhabitant of a highway district, who shall construct on his own land therein, and keep in repair a watering trough beside the public highway, well supplied with fresh water, the surface of which shall be two or more feet above the level of the ground, and easily accessible for horses with vehicles; but the number of such watering troughs in the district, and their location, shall be designated by the commissioners.

§ 49. **System of taxation defined.**—The system of taxation for working and repairing highways, as hereinbefore provided, shall be known as "The Labor System of Taxation," and the system hereinafter provided, shall be known as "The Money System of Taxation."

§ 50. **Town may change its system.**—Any town may change its system of taxation for working and repairing its highways, by complying with the following provisions relating thereto.

§ 51. **Vote thereon.**—Upon the written request of twenty-five taxpayers of any town, the electors thereof may, at each annual town-meeting, vote by ballot upon the question of changing the system of taxation for working the highways; but no person residing

in an incorporated village or city, exempted from the jurisdiction of commissioners of highways of the town, shall sign such request, or vote upon such question.

§ 52. **When change to take effect.**—When a town shall have voted to change the system of working and repairing the highways, as herein provided, such change shall not take effect until the next annual meeting of the board of supervisors, after the town-meeting at which it was decided to make the change; and until such annual meeting of the board of supervisors the former system of repairing highways shall remain in force in such town.

§ 53. **Annual tax thereunder.**—Any town voting in favor of the money system, shall annually raise by tax, to be levied and collected the same as other town taxes, for the repair of the highways, an annual sum of money; which shall be at least equal to one-half the value, at the commutation rates, of the highway labor which should be assessable under the labor system. The amount of such tax shall be determined by the commissioners of highways and the town board, who shall certify the same to the board of supervisors, the same as any other town charge.

### ARTICLE III.

#### THE DUTIES OF OVERSEERS OF HIGHWAYS, AND THE PERFORMANCE OF HIGHWAY LABOR.

##### SECTION 60. Notice to work.

- 61. Notice to non-residents.
- 62. Commutation.
- 63. Teams and implements.
- 64. Substitutes.
- 65. Penalties for neglect to work or commute.
- 66. Assessment for unperformed labor.
- 67. Penalty for refusal of overseer to provide list.
- 68. Collection of arrearages for unperformed labor
- 69. Annual return of overseers.
- 70. Noxious weeds in highway.
- 71. Overseers to notify occupant to remove weeds
- 72. Abatement of tax for removal of fence.
- 73. Abatement of tax for street lamps.

SECTION 60. **Notice to work.**—Every overseer of highways shall give at least twenty-four hours notice to all residents of his district, and corporations assessed to work upon the highways therein, of the time and place at which they are to appear for that purpose, and with what teams and implements, and that they will be allowed at the rate

of one day for every eight hours of work on the highways, between seven o'clock in the forenoon and six o'clock in the afternoon. The notice to corporations shall be served personally on an agent thereof residing in the town, if any, or if none, by filing the notice in the office of the town clerk, at least five days before the labor shall be required; and any number of days not exceeding fifty, may be required to be performed by any such corporation in any one day.

§ 61. Notice to non-residents.—Every overseer of highways shall give at least five days notice to every resident agent of every non-resident land-holder, whose lands are assessed, of the number of days such non-resident is assessed, and the time and place at which the labor is to be performed. If the overseer can not ascertain that such non-resident has an agent within the town, he shall file a written notice in the office of the town clerk, at least twenty days before the time appointed for performing such labor, containing the names of such non-residents, when known, and a description of the lands assessed, with the number of days labor assessed on each tract, and the time and place at which the labor is to be performed.

§ 62. Commutation.—Every person and corporation, shall work the whole number of days for which he or it shall have been assessed, except such days as shall be commuted for, at the rate of one dollar per day, and such commutation money shall be paid to the overseer of highways of the district in which the labor shall be assessed, within at least twenty-four hours before the time when the person or corporation is required to appear and work on the highway; but any corporation may pay its commutation money to the commissioners of highways of the town, who shall pay the same to the overseers of the districts respectively, in which the labor commuted for was assessed.

§ 63. Teams and implements.—Every overseer of highways may require a team, or a cart, wagon or plow, with a pair of horses or oxen, and a man to manage them, from any person having the same within his district, who shall have been assessed three days or more, and who shall not have commuted for his assessment; and the person furnishing the same upon such requisition, shall be entitled to a credit of three days for each day's service therewith.

§ 64. Substitutes.—Every person or corporation assessed to work on the highways, and warned, who does not commute therefor, may appear in person or by an able bodied man as a substitute. A day's labor shall be eight hours of work, and every person or corpora-

tion assessed more than one day shall be allowed to work ten hours in each day.

§ 65. **Penalties for neglect to work or commute.**— Every person or corporation assessed highway labor, who shall not commute, and who shall not appear and work when duly notified, shall be liable to a penalty of one dollar and fifty cents for every day he shall so fail to appear and work ; and for wholly omitting to comply with any requisition to furnish a team, cart, wagon, implements and man, he shall be liable to a penalty of five dollars for each day's omission, and for omitting to furnish either a cart, wagon, plow, team or man to manage the team, he shall be liable to a penalty of one dollar and fifty cents for each day's omission ; and if any person shall after appearing, remain idle, or not work faithfully, or hinder others from working, he shall be liable to a penalty at the rate of one dollar and fifty cents a day, for each hour. The penalties herein imposed, may be recovered by action by the overseer of highways as such, and, when collected, shall be expended or disposed of by the overseer in the same manner as commutation moneys. The penalties, when recovered, shall be applied in satisfaction of the labor assessed, for omission to perform which, the penalties were respectively imposed. The overseer of highways may excuse any omission to perform labor when required, if a satisfactory reason shall be given therefor ; but the acceptance of any such excuse shall not exempt the person excused from commuting for, or working the whole number of days for which he shall have been assessed during the year.

§ 66. **Assessment for unperformed labor.**— Every overseer of highways shall, on or before the first day of October in each year, make out and deliver to the supervisor of his town, a list of all persons and corporations who have not worked out, or commuted for their highway assessment, with the number of days not worked or commuted for by each, charging for each day in such a list, at the rate of one dollar and fifty cents per day ; and also a list of all the lands of non-residents and persons unknown, which were assessed on his warrant by the commissioners of highways, or added by him, on which the labor assessed has not been performed or commuted for, and the number of days labor unpaid by each, charging for the same at the rate of one dollar and fifty cents per day, which list shall be accompanied by the affidavit of the overseer, that he has given the notice required, to appear and work, and that the labor specified in the list returned, has not been performed or commuted,



and the supervisor shall present such lists to the board of supervisors of his county.

§ 67. **Penalty for refusal of overseer to provide list.**—If any overseer shall refuse or neglect to deliver such list to the supervisor or to make the affidavits as herein directed, he shall for every such offense, forfeit the sum of ten dollars, and the amount of taxes for labor remaining unpaid, at the rate of one dollar for each day assessed, to be recovered by the commissioners of highways, and applied in making and improving the highways and bridges of the delinquent overseer's district.

§ 68. **Collection of arrearages for unperformed labor.**—Each board of supervisors, at its annual meeting in each year, shall cause the amount of such arrearages for highway labor returned to them, estimating each day's labor at one dollar and fifty cents a day, to be levied and collected from the real or personal estate of the person, corporation, or from the non-resident real estate, specified in such list, to be collected by the collectors of the several towns, in the same manner that other town taxes are collected, and shall order the same, when collected, to be paid over to the commissioners of highways of the town wherein the same is collected, to be by them applied toward the construction, repairs and improvement of the highways and bridges in the district in which the labor was originally assessed.

§ 69. **Annual return of overseers.**—Every overseer of highways shall, on the second Tuesday next preceding the time of holding the annual town-meeting in his town, within the year for which he is elected or appointed, render to one of the commissioners of highways of the town, an account in writing, verified by his oath, and containing,

1. The names of all persons assessed to work on the highways in the district of which he is overseer.
2. The names of all those who have actually worked on the highways, with the number of days they have so worked.
3. The names of all those from whom penalties have been collected, and the amounts thereof.
4. The names of all those who have commuted, and the manner in which the moneys arising from penalties and commutations have been expended by him.
5. A list of all persons whose names he has returned to the supervisor as having neglected or refused to work out their highway assessments, with the number of days and the amount of tax so re-

turned for each person, and a list of all the lands which he has returned to the supervisor for non-payment of taxes, and the amount of tax on each tract of land so returned; and he shall then and there pay to the commissioners of highways, all money remaining in his hands unexpended, to be applied by them in making and improving the highways and bridges of the town, in such manner as they shall direct; and if he shall neglect or refuse to render such account, or if, having rendered the same, he shall refuse or neglect to pay any balance which then may be due from him, he shall for every such offense, forfeit the sum of ten dollars.

§ 70. **Noxious weeds in highway.** — Every person or corporation, owning or occupying, under a lease for one or more years, any cultivated or inclosed lands, abutting upon any highway, shall cause all noxious weeds, briars, and brush growing upon such lands within the bounds of the highway, to be cut or destroyed between the fifteenth day of June and the first day of July, and between the fifteenth day of August and the first day of September, in each and every year; but boards of supervisors may fix a different period or periods, for such cutting or destruction in their respective counties. No person shall place or cause to be placed, any noxious weeds, or the seeds of such weeds, within the bounds of any public highway. Any willful violation of this section, shall subject the person or corporation so offending, to a penalty of ten dollars for each offense.

§ 71. **Overseers to notify occupants to remove weeds.** — The overseers of every highway district shall give written notice to any occupant of the premises to cut all weeds, briars and brush growing within the bounds of the highway; if such occupant shall not cut such weeds, briars and brush as so required within ten days after receiving such notice, such overseer shall employ some one to do such work, and and\* make a report under oath to the commissioners of highways, of the amount expended by him thereon, and the ownership and occupancy of the several parcels of land against which the labor was performed, on or before the first day of November in each year; the commissioners of highways shall certify these statements to the supervisor of the town, and the supervisor shall lay the same before the board of supervisors at its next annual meeting, and such board shall include the amounts included in such statements in the taxes assessed upon the lands, upon or against which the labor was performed, the same to be collected with the other taxes, and paid over upon the order of the supervisor to the parties entitled thereto.

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\*No in the original.

§ 72. **Abatement of tax for removal of fence.** — Any inhabitant liable to a highway tax, who shall remove from lands owned or occupied by him, the fence along any public highway, for the purpose of preventing the drifting of snow into such highway, shall be allowed by the overseer of highways, in abatement of his highway tax, the time actually expended in removing such fence, and in replacing the same, pursuant to the directions of the overseer of highways.

§ 73. **Abatement of tax for street lamps.** — Any person or corporation owning or holding real estate, or other property liable to highway tax, except in the county of Kings, other than in cities and incorporated villages, who shall, with the consent of the overseers of highways in charge of the district in which such property is assessed, and in such places as he may direct, erect a street lamp, and cause the same to be properly attended to and kept burning during such hours of each night as the overseer of highways may direct, shall be allowed by the overseer of highways, in abatement of such highway tax, six dollars annually, or such portion of six dollars as the annual highway taxes upon such real estate or other property may be.

## ARTICLE IV.

### LAYING OUT, ALTERING AND DISCONTINUING HIGHWAYS, AND LAYING OUT PRIVATE ROADS.

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82. Application.
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84. Appointment of commissioners, and their duties.
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87. Damage in certain cases, how estimated.
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§ 80. **Highways by dedication.**—Whenever land is dedicated to a town for highway purposes therein, the commissioners of highways of such town may, either with or without a written application therefor, and without expense to the town, make an order laying out such highway, upon filing and recording in the town clerk's office, with such order, a release of the land from the owner thereof. Such commissioners of highways may also, upon written application, and with the written consent of the town board, make an order laying out or altering a highway in their town, upon filing and recording in the town clerk's office, with such application, consent and order a release of all damages from the owners of lands taken or affected thereby, when the consideration for such release, as agreed upon between such commissioners and owners, shall not, in any one case, from any one claimant, exceed one hundred dollars, and from all claimants, five hundred dollars. An order of the commissioners, as herein provided, shall be final.

§ 81. **Survey.**—Whenever the commissioners of highways shall lay out any highway, either upon application to them or otherwise, they shall cause a survey thereof to be made, and shall incorporate the survey in an order to be signed by them, and to be filed and recorded in the office of the town clerk, who shall note the time of recording the same.

§ 82. **Application.**—Any person or corporation assessable for highway labor, may make written application to the commissioners of highways of the town in which he or it shall reside, or is assessable, to alter or discontinue a highway, or to lay out a new highway.

§ 83. **Application for commissioners.**—Whenever the land is not dedicated to the town for highway purposes, and not released as herein provided, the applicant shall, within thirty days after presenting the application to the commissioners of highways, by verified petition showing the applicant's right to so present the same, and that such application has been in good faith presented, apply to the county court of the county where such highway shall be, for the appointment of three commissioners to determine upon the necessity of such highway proposed to be laid out or altered, or to the uselessness of the highway proposed to be discontinued, and to assess the damages by reason of the laying out, opening, altering or discontinuing of such highway.

§ 84. **Appointment of commissioners and their duties.**—Upon the presentation of such petition, the county court shall appoint three disinterested freeholders, who shall not be named by any person interested in the proceedings, who shall be residents of the county, but not of the town wherein the highway is located, as commissioners to determine the questions mentioned in the last section. They shall take the constitutional oath of office, and appoint a time and place at which they shall all meet to hear the commissioners of highways of the town where such highway is situated, and others interested therein. They shall personally examine the highway described in the application, hear any reasons that may be offered for or against the laying out, altering or discontinuing of the highway, and assess all damages by reason thereof. They may adjourn the proceedings before them from time to time, issue subpoenas and administer oaths in such proceedings, and they shall keep minutes of their proceedings, and shall reduce to writing all oral evidence given before them upon the subject of the assessment of damages. They shall make duplicate certificates of their decision, and shall file one in the town clerk's office of the town, and the other, with such minutes and evidence, in the county clerk's office of the county in which the highway or proposed highway is located.

§ 85. **Notice of meeting.**—The applicant shall cause, at least eight days previous, written or printed notice to be posted up in not less than three public places in the town specifying, as near as may

be, the highway proposed to be laid out, altered or discontinued, the tracts or parcels of land through which it runs, and the time and place of the meeting of the commissioners appointed by the county court to examine the highway as mentioned in the last section. Such notice shall also, in like time, be personally served on the owner and occupant of the land, if they reside in the town, or by leaving the same at their residence with a person of mature age; if they do not reside in the same town, or service can not be made, a copy of such notice shall be mailed to such owner or occupant, if their post office address is known to the applicant or ascertainable by him upon reasonable inquiry.

**§ 86. Decision of commissioners in favor of application.**—If a majority of the commissioners appointed by the county court shall determine that the highway or alteration applied for is necessary, or that the highway proposed to be discontinued is useless, they shall assess all damages which may be required to be assessed by reason thereof and make duplicate certificates to that effect.

**§ 87. Damages in certain cases, how estimated.**—The owner of lands within the bounds of a highway discontinued may inclose the same and have the exclusive use thereof, and the benefits resulting therefrom may be deducted in the assessment of damage caused by the laying out of a highway through his other lands in place of the discontinued highway.

**§ 88. Decision of commissioners denying application.**—If a majority of the commissioners appointed by county court shall determine that the proposed highway or alteration is not necessary, or that the highway proposed to be discontinued is not useless, they shall make duplicate certificates to that effect.

**§ 89. Motion to confirm, vacate or modify.**—Within thirty days after the decision of the commissioners shall have been filed in the town clerk's office any party interested in the proceeding may apply to the court appointing the commissioners for an order confirming, vacating or modifying their decision, and such court may confirm, vacate or modify such decision. If the decision be vacated the court may order another hearing of the matter before the same or other commissioners. If no such motion is made, the decision of the commissioners shall be deemed final. Such motion shall be brought on, upon the service of papers upon adverse parties in the proceeding, according to the usual practice of the court in actions and special proceedings pending therein; and the decision of the county court shall be final, excepting that a new hearing may be



ordered as herein provided. If the final decision shall be adverse to the applicant, no other application for laying out, altering or discontinuing the same highway shall be made within two years.

§ 90. **Limitations upon laying out highways.**—No highways shall be laid out less than three rods in width, nor through an orchard of the growth of four years or more, or any garden cultivated as such for four years or more, or grape vineyard of one or more years growth, and used in good faith for vineyard purposes, or buildings, or any fixtures or erections for the purposes of trade or manufactures, or any yard or inclosure necessary to the use and enjoyment thereof, without the consent of the owner or owners thereof, unless so ordered by the county court of the county in which the proposed highway is situated; such order shall be made on the certificate of the commissioners of highways of the town or towns in which the proposed highway is situated, showing that the public interest will be greatly promoted by the laying out and opening of such highway, and that commissioners appointed by the court have certified that it is necessary; a copy of the certificate, with eight days notice of the time and place of the hearing before the county court, shall be served on the owners of the land, or if they are not residents of the county, upon the occupants; the county court upon such certificates, and the proofs and other proceedings therein, may order the highway to be laid out and opened, if it deems it necessary and proper. The commissioners of highways shall then present the order of the county court, with the certificate and proofs upon which it was granted, certified by such court to the general term of the supreme court in the judicial department in which the land is situated, upon the usual notice of motion, served upon the owner or occupant, or the attorney who appeared for them in the county court. If such general term of the supreme court shall confirm the order of the county court, the commissioners of highways shall then lay out and open such highway as in other cases. The provisions of this section shall not apply to vineyards planted, or to buildings, fixtures, erections, yards or inclosures, made or placed on such land after an application for the laying out and opening the highway shall have been made.

§ 91. **Laying out highways through burying-grounds.**—No private road or highway shall be laid out or constructed upon or through any burying-ground, unless the remains therein contained are first carefully removed, and properly reinterred in some other burying ground, at the expense of the persons desiring such road or

highway, and pursuant to an order of the county court of the county in which the same is situated, obtained upon notice to such persons as the court may direct.

§ 92. **Costs, by whom paid.**—In all cases of assessments of damages by commissioners appointed by the court, the costs thereof shall be paid by the town except when reassessment of damages shall be had on the application of the party for whom the damages were assessed, and such damages shall not be increased on such reassessment, the costs shall be paid by the party applying for the reassessment; and when application shall be made by two or more persons for the reassessment of damages, all persons who may be liable for costs under this section, shall be liable in proportion to the amount of damages respectively assessed to them by the first assessment, and may be recovered by action in favor of any person entitled to the same. Each commissioner appointed by the court, for each day necessarily employed as such, shall be entitled to six dollars and his necessary expenses.

§ 93. **Damages assessed, and costs to be audited.**—All damages to be agreed upon, or which may be finally assessed, and costs against the town, as herein provided, shall be laid before the board of supervisors, by the supervisor of the town, to be audited with the charges of the commissioners, justices, surveyors, or other persons or officers employed in making the assessment, and for whose services the town shall be liable, and the amount shall be levied and collected in the town in which the highway is situated, and the money so collected shall be paid to the commissioners of highways of such town, who shall pay to the owner the sum assessed to him, and appropriate the residue to satisfy the charges aforesaid.

§ 94. **When officers of different towns disagree about highway.**—When the commissioners of highways of any town, or officers of any village or city having the powers of commissioners of highways, shall differ with the commissioners of highways of any other town, or with the officers of such a village or city having the powers of commissioners of highways in the same county, relating to the laying out of a new highway or altering an old highway extending into both towns, or a town and a village or city, or when commissioners of highways of a town in one county, shall differ with the commissioners of highways of a town, or the officers of a village or city having the powers of commissioners of highways, in another county, relating to the laying out of a new highway, or the alteration of an old highway, which shall extend into both counties, the

commissioners of highways of both towns, or the officers of the village or city having such powers, shall meet on five days written notice, specifying the time and place, within some one of such towns, villages, or cities, given by either of such commissioners or officers having powers of commissioners of highways, to make their determination in writing, upon the subject of their differences. If they can not agree, they or either of them may certify the fact of their disagreement to the county court of the county, if the proposed highway is all in one county, or if in different counties, or if the county judge is disqualified or unable to act, to the supreme court; such court shall thereupon appoint three commissioners, freeholders of the county, not residents of the same town, village or city where the highway is located; or if between two counties, then freeholders of another county, who shall take the constitutional oath of office, and upon due notice to all persons interested, view the proposed highway, or proposed alteration of a highway, administer all necessary oaths, and take such evidence as they shall deem proper, and shall decide (subject to the approval of the court, as hereinafter provided) all questions that shall arise on the hearing, as to the laying out or altering of such highway, its location, width, grade and character of road-bed, or any point that may arise relating thereto; and if they decide to open or alter such highway, they shall ascertain and appraise the damages, if any, to the individual owners and occupants of the land through which such new or altered highway is proposed to pass, and shall report such evidence and decision to such court, with their assessment of damages, if any, with all convenient speed. On the coming in of such report, the court may, by order, confirm, modify or set aside the report in whole or in part, and may order a new appraisal by the same or other commissioners, and shall decide all questions that may arise before it. And all orders and decisions in the matter shall be filed in the county clerk's office of each county where the highway is located, and shall be duly recorded therein.

§ 95. **Difference about improvements.**— When the commissioners of highways of a town, or the officers of a village or city having the powers of commissioners of highways therein, shall desire to make a new or altered highway extending beyond the bounds of such town, village or city, a better highway than is usually made for a common highway, with a special grade or road-bed, drainage or improved plan, and are willing to bear the whole or a part of the expense thereof beyond such bounds, but can not agree in regard to the same, upon

written application of either of the commissioners or officers, and notice to all parties interested, such court shall make an equitable adjustment of the matters, and may direct, that in consideration of the payment of such portion of the additional expense by the town, village or city that desires the improved and better highway, as shall be equitable, its officers, contractors, servants and agents may go into such town, village or city, and make the grade and road-bed, and do whatever may be necessary and proper for the completion of such better highway, advancing the money to do it; the amount of damages to each owner or occupant, shall be ascertained and determined by commissioners, who shall be appointed, and whose proceedings shall be conducted in the manner provided by the last preceding section; and upon the coming in of their report of damages, and of the expenses paid, such court shall, on notice to all parties interested, direct that the amount of damages assessed to each owner or occupant, if any, and all such expenses be paid by each, any or all of such towns, villages or cities as shall be just and equitable, and the damages and expenses assessed and allowed, as in this and the last preceding sections, shall be paid and collected as if fixed by the commissioners of highways of the towns, or the officers of such villages or cities having the powers of such commissioners. Every commissioner appointed as herein provided, shall be paid six dollars for each day actually and necessarily employed in such service and necessary expenses.

§ 96. **Highway in two or more towns.**— When application is made to lay out, alter or discontinue a highway located in two or more towns, all notices or proceedings required to be served upon the commissioners of highways, shall be served upon the commissioners of highways of each town; and the commissioners appointed by the court, shall determine the amount of damages to be paid by each town, and when the towns are in different counties, the application for the appointment of commissioners shall be made to a special term of the supreme court held in the district where the highway or some part of it is located; and the same proceedings shall thereafter be had in the supreme court of such district as are authorized by this chapter to be had in the county court.

§ 97. **Laying out highway upon town line.**— An application to lay out a highway upon the line between two or more towns, shall be made to the commissioners of highways of each town, who shall act together in the matter, and upon laying out any such highway, they shall divide it into two or more highway districts, in such manner that the labor and expense of opening, working and keeping the same

in repair through each of such districts, may be equal as near as may be, and to allot an equal number of the districts to each of the towns; each district shall be considered as wholly belonging to the town to which it shall be allotted, for the purpose of opening and improving the highway, and for keeping it in repair; and the commissioners of highways shall cause the highway, and the partition and allotment thereof to be recorded in the office of the town clerk, in each of their respective towns.

§ 98. **Final determination, how carried out.**—The final determination of commissioners appointed by any court, relating to the laying out, altering or discontinuing a highway, and all orders and other papers filed or entered in the proceedings, or certified copies thereof from the court where such determination, order and papers are filed and entered, shall be forthwith filed and recorded in the town clerk's office of the town where the highway is located; and every such decision shall be carried out by the commissioners of highways of the town, the same as if they had made an order to that effect.

§ 99. **Highways abandoned.**—Every highway that shall not have been opened and worked within six years from the time it shall have been dedicated to the use of the public, or laid out, shall cease to be a highway; but the period during which any action or proceeding shall have been, or shall be pending in regard to any such highway, shall form no part of such six years; and every highway that shall not have been traveled or used as a highway for six years, shall cease to be a highway. The commissioners of highways shall file, and cause to be recorded in the town clerk's office of the town, written description, signed by them, of each highway so abandoned, and the same shall thereupon be discontinued.

§ 100. **Highways by use.**—All lands which shall have been used by the public as a highway for the period of twenty years or more, shall be a highway, with the same force and effect as if it had been duly laid out and recorded as a highway, and the commissioners of highways shall order the overseers of highways to open all such highways to the width of at least two rods.

§ 101. **Fences to be removed.**—Whenever a highway shall have been laid out through any inclosed, cultivated or improved lands, in conformity to the provisions of this chapter, the commissioners of highways shall give to the owner or occupant of the land through which such highway shall have been laid, sixty days notice in writing to remove his fences; if such owner shall not remove his fences

within the sixty days, the commissioners shall cause them to be removed, and shall direct the highway to be opened and worked.

§ 102. **Penalty for falling trees.**—If any person shall cut down any tree on land not occupied by him, so that it shall fall into any highway, river or stream, unless by the order and consent of the occupant, the person so offending shall forfeit to such occupant, the sum of one dollar for every tree so fallen, and the like sum for every day the same shall remain in the highway, river or stream.

§ 103. **Fallen trees to be removed.**—If any tree shall fall, or be fallen by any person from any inclosed land into any highway, any person may give notice to the occupant of the land from which the tree shall have fallen, to remove the same within two days; if such tree shall not be removed within that time, but shall continue in the highway, the occupant of the land shall forfeit the sum of fifty cents for every day thereafter, until the tree shall be removed.

§ 104. **Penalty for obstruction or encroachment.**—Whoever shall obstruct or encroach upon any highway, or shall unlawfully fill up or place any obstruction in any ditch for draining the water from any highway, shall forfeit for every such offense the sum of five dollars.

§ 105. **How removed and liability for not removing.**—The commissioners of highways shall serve upon the owner or occupant of lands adjoining that part of a highway within their town, in which any obstruction or encroachment may exist, a notice specifying the extent and location of such obstruction or encroachment, and directing such owner or occupant to remove the same within a specified time, not more than sixty days after the service of the notice. If such owner or occupant shall neglect or refuse to remove such obstruction or encroachment within such time, he shall forfeit to the town the sum of twenty-five dollars; and the commissioners may remove such obstructions or encroachments at the expense of the town, which may be recovered by action, of such owner or occupant; or the said commissioners may bring an action in any court of competent jurisdiction, to compel such owner or occupant to remove such obstruction or encroachment. Actions by commissioners of highways, as in this section provided, shall be in the name of the town.

§ 106. **Private road.**—An application for a private road shall be made in writing to the commissioners of highways of the town in which it is to be located, specifying its width and location, courses



and distances, and the names of the owners and occupants of the land through which it is proposed be laid out.

\*(R. S., pp. 1379, 1383; post, pp. 882-893.)\*

§ 107. **Jury to determine necessity and assess damages.**—One or more of the commissioners to whom the application shall be made, shall appoint as early a day as the convenience of the parties interested will allow, when, at a place designated in the town, a jury will be selected for the purpose of determining upon the necessity of such road, and to assess the damages by reason of the opening thereof.

§ 108. **Copy application and notice delivered to applicant.**—Such commissioners shall deliver to the applicant a copy of the application to which shall be added a notice of the time and place appointed for the selection of the jury, addressed to the owners and occupants of the land.

§ 109. **Copy and notice to be served.**—The applicant on receiving the copy and notice shall, on the same day, or the next day thereafter, excluding Sunday and holidays, cause such copy and notice to be served upon the persons to whom it is addressed, by delivering to each of them who reside in the same town a copy thereof, or in case of his absence, by leaving the same at his residence, and upon such as reside elsewhere, by depositing in the post-office a copy thereof to each, properly inclosed in an envelope, addressed to them respectively at their post-office address, and paying the postage thereon, or, in case of infant owners, by like service upon their parent or guardian.

§ 110. **List of jurors.**—At such time and place, on due proof of the service of the notice, one or more of the commissioners shall present a list of the names of eighteen resident freeholders of the town, in no wise of kin to the applicant, owner or occupant, or either of them, and not interested in such lands.

§ 111. **Names struck off.**—The owners or occupants of the land, may strike from the list not more than six names, and the applicant a like number; and of the number which remain, the six names standing first upon the list shall be the jury.

§ 112. **Place of meeting.**—The commissioner or commissioners present, shall then appoint some convenient time and place for the jury to meet, and shall summon them accordingly.

§ 113. **Jury to determine and assess damages.**—At least one commissioner and all the persons named and summoned on such

jury, shall meet at the time and place appointed; but if one or more of the six jurors shall not appear, the commissioner or commissioners present shall summon so many qualified to serve as such jurors as will be sufficient to make the number present six, to forthwith appear and act as such; and when six shall have so appeared, they shall constitute the jury, and shall be sworn well and truly to determine as to the necessity of the road, and to assess the damages by reason of the opening thereof.

§ 114. **Their verdict.**—The jury shall view the premises, hear the allegations of the parties, and such witnesses as they may produce, and if they shall determine that the proposed road is necessary, they shall assess the damages to the person or persons through whose land it is to pass, and deliver their verdict in writing to the commissioners.

§ 115. **Value of highway discontinued.**—If the necessity of such private road has been occasioned by the alteration or discontinuance of a public highway running through the lands belonging to a person through whose lands the private road is proposed to be opened, the jury shall take into consideration the value of the highway so discontinued, and the benefit resulting to the person by reason of such discontinuance, and shall deduct the same from the damages assessed for the opening and laying out of such private road.

§ 116. **Papers to be recorded in the town clerk's office.**—The commissioners shall annex to such verdict the application, and their certificate that the road is laid out, and the same shall be filed and recorded in the town clerk's office.

§ 117. **Damages to be paid before opening the road.**—The damages assessed by the jury shall be paid by the party for whose benefit the road is laid out, before the road is opened or used; but if the jury shall certify that the necessity of such private road was occasioned by the alteration or discontinuance of a public highway, such damages shall be paid by the town, and refunded to the applicant.

§ 118. **Fees of officers.**—Every juror, in proceedings for a private road, shall be entitled to receive for his services one dollar and fifty cents; and commissioners, of highways, their per diem compensation, to be paid by the applicant.

§ 119. **Motion to confirm, vacate or modify.**—Within thirty days after the decision of the jury shall have been filed in the town clerk's office, the owner or occupant may apply to the county court of the county wherein such private road is situated, for an order

confirming, vacating or modifying their decision ; and such court may confirm, vacate or modify such decision as it shall deem just and legal. If the decision is vacated, the court may order another hearing of the matter before another jury, and remit the proceeding to the commissioners of highways of the same town for that purpose. If no such motion is made, the decision of the jury shall be deemed final. The motion shall be brought on, upon the service of papers on the adverse party in the proceeding, according to the usual practice of the court in actions and special proceedings pending therein, and the decision of the county court shall be final, except that a new hearing may be had, as herein provided. If the final decision shall be adverse to the applicant, no other application for the same road shall be made within two years.

§ 120. **Costs of new hearing.**—If upon a new hearing, the damages assessed are increased, the applicant shall pay the costs and expenses thereof, otherwise the owner shall pay the same.

§ 121. **For what purpose private road to be used.**—Every such private road when so laid out, shall be for the use of such applicant, his heirs and assigns; but not to be converted to any other use or purpose than that of a road ; nor shall the occupant or owner of the land through which said road shall be laid out, be permitted to use the same as a road, unless he shall have signified such intention to the jury who assessed the damages for laying out such road, and before such damages were assessed.

§ 122. **Highways or roads along division lines.**—Whenever a highway or private road shall be laid along the division line between lands of two or more persons, and wholly upon one side of the line, and the land upon both sides is cultivated or improved, the persons owning or occupying the lands adjoining such highway or road, shall be paid for building and maintaining such additional fence as they may be required to build or maintain, by reason of the laying out and opening such highway or road ; which damages shall be ascertained and determined in the same manner that other damages are ascertained and determined in the laying out of highways or private roads.

§ 123. **Adjournments.**—If any accident shall prevent any of the proceedings required by this chapter relating to the laying out, altering or discontinuing of a highway, or the laying out a private road, to be done on the day assigned, the proceedings may be adjourned to some other day, and the commissioner shall publicly announce such adjournment.

## ARTICLE V.

## BRIDGES.

## SECTION 130. When town or county expense.

- 131. Additional county aid.
- 132. Statement of expenses.
- 133. Supervisors to levy tax.
- 134. Joint liability of towns, and their joint contracts.
- 135. Refusal to repair.
- 136. Proceedings in court.
- 137. Commissioners to institute proceedings.
- 138. Their duty.
- 139. Commissioners to report.
- 140. Appeals.
- 141. Power of court on appeal.
- 142. Refusal to repair bridge.
- 143. Penalty, and notice on bridge.
- 144. Offense.
- 145. Iron bridges.

**SECTION 130. When town or county expense.**—The towns of this state, except as otherwise herein provided, shall be liable to pay the expenses for the construction and repair of its public free bridges, constructed over streams or other waters within their bounds, and their just and equitable share of such expenses when so constructed over streams or other waters upon their boundaries, except between the counties of Westchester and New York; and when such bridges are constructed over streams or other waters forming the boundary line of towns, either in the same or adjoining counties, such towns shall be jointly liable to pay such expenses, except that when the whole expense in any one town, for any one year, for the construction, care, maintenance, preservation and repair of its bridges, shall exceed one-sixth of one per centum on the assessed valuation of the taxable property of the town for that year, the county in which such town is located, shall then pay not less than one-third part of such excess. Each of the counties of this state shall also be liable to pay for the construction, care, maintenance, preservation and repair of public bridges, lawfully constructed over streams or other waters forming its boundary line, not less than one-sixth part of the expenses of such construction, care, maintenance, preservation and repair.

[§ 131. Repealed by the county law, L. 1892, chap. 686.]

**§ 132. Statement of expenses.**—The commissioners of highways of every town in which the whole or any part of any free

bridge may be, shall make and deliver to the supervisor of the town, on or before the first day of November in each year, a written statement, verified by one of them, containing a description of such bridge, the whole expense in items incurred by the town during the year preceding for its construction or repair.

§ 133. **Supervisors to levy tax.**—Every supervisor to whom such statement is delivered shall present the same to the board of supervisors of his county at its next annual session thereafter, and the board of supervisors shall levy upon the taxable property of the county a sum sufficient to pay its proportion of such expense and the same when collected shall be paid to the commissioners of highways of such town to be applied toward the payment of such expense.

§ 134. **Joint liabilities of towns, and their joint contracts.**—Whenever any two or more towns shall be liable to make or maintain any bridge or bridges, the same shall be built and maintained at the joint expense of such towns, without reference to town lines. The commissioners of highways of all the towns, or of one or more of such towns, the other refusing to act, may enter into a joint contract for making and repairing such bridges.

§ 135. **Refusal to repair.**—If the commissioners of highways of either of such towns, after notice in writing from the commissioners of highways of any other of such towns, shall not within twenty days give their consent in writing to build or repair any such bridge, and shall not within a reasonable time thereafter do the same, the commissioners of highways giving such notice may make or repair such bridge, and then maintain an action in the name of the town, against the town whose commissioners neglect or refuse to join in such making or repairing, and in such action, the plaintiffs shall be entitled to recover so much from the defendant, as the town would be liable to contribute to the same, together with costs and interest.

§ 136. **Proceedings in court.**—Whenever any adjoining towns shall be liable to make or maintain any bridge over any streams dividing such towns, whether in the same or different counties, three freeholders in either of such towns may, by petition signed by them, apply to the commissioners of highways in each of such towns, to build, rebuild or repair such bridge, and if such commissioners refuse to build, rebuild or repair such bridge within a reasonable time, either for want of funds or any other cause, such freeholders, upon affidavit and notice of motion, a copy of which shall be served on each of the commissioners, at least eight days before the hearing, may apply to the supreme court at a special term thereof, to be held in the judicial

district in which such bridge, or any part thereof, shall be located, for an order requiring such commissioners to build, rebuild or repair such bridge, and the court upon such motion may, in doubtful cases, refer the case to some disinterested person to ascertain the requisite facts in relation thereto, and to report the evidence thereof, to the court. Upon the coming in of the report, in case of such reference or upon or after the hearing of the motion, in case no such reference shall be ordered, the court shall make an order thereon as the justice of the case shall require. If the motion be granted in whole or in part, whereby funds shall be needed by the commissioners to carry the order into effect, such court shall specify the amount of money required for that purpose, and how much thereof shall be raised in each town.

**§ 137. Commissioners to institute proceedings.**—The commissioners of highways of any such town, may institute and prosecute proceedings under this chapter, in the name of the town, to compel the commissioners of such adjoining towns, to join in the building, rebuilding or repairing of any such bridge, in like manner as freeholders are hereby authorized.

**§ 138. Their duty.**—The order for building, rebuilding or repairing a bridge being made, and a copy thereof being served on the commissioners of highways of such adjoining towns respectively, the commissioners of highways of such towns shall forthwith meet and fix on the plan of such bridge, or the manner of repairing the same, and shall cause such bridge to be built, rebuilt or repaired out of any funds in their hands applicable thereto; and if an adequate amount of funds are on hand, they shall cause the same to be built, rebuilt or repaired upon credit, or in part for cash and in part upon credit, according to the exigency of the case; and the commissioners may enter into a contract for building, rebuilding or repairing such bridge, pledging the credit of each town for the payment of its appropriate share, so far as the same shall be upon credit.

**§ 139. Commissioners to report.**—The commissioners of highways of each town, shall make a full report of their proceedings in the premises to the town board, at the time of making their annual report. They shall attach to the copy of the order granted by the supreme court, an accurate account under oath, of what has been done in the premises, and deliver the same to the supervisor of their town. The board of supervisors at their annual meeting, shall levy a tax upon each of such towns, when in the same county, and upon the appropriate town when in different counties, for its share of the



costs of building, rebuilding or repairing such bridge, after deducting all payments actually made by the commissioners thereon; which tax, including prior payments, shall in no case exceed the amount specified in the order.

§ 140. **Appeals.**—Either party aggrieved by the granting or refusing to grant such order by the court at special term, may appeal from such decision to the general term of the supreme court for the review of the decision. The general term may alter, modify or reverse the order, with or without costs.

§ 141. **Power of court on appeal.**—The special term may grant or refuse costs as upon a motion, including also witnesses' fees, referees' fees and disbursements. The appeal provided for in the last preceding section, shall conform to the practice of the supreme court, in case of appeal from an order of a special term, to the general term.

§ 142. **Refusal to repair bridge.**—Whenever any such bridge shall have been or shall be so out of repair as to render it unsafe for travelers to pass over the same, or whenever any such bridge shall have fallen down, or been swept away by a freshet or otherwise, if the commissioners of highways of the adjoining towns, after reasonable notice of such condition of the bridge, have neglected or refused, or shall neglect or refuse to repair or rebuild it, then whatever funds have been or shall be necessarily or reasonably laid out or expended in repairing such bridge, or in rebuilding the same, by any person or corporation, shall be a charge on such adjoining towns, each being liable for its just proportion; and the person or corporation who has made such expenditure, or shall make such expenditures, may apply to the supreme court, at a special term, for an order requiring such towns severally to reimburse such expenditures, which application shall be made by serving papers upon the commissioners of highways of each of such towns at least eight days; and the court may grant an order requiring each of the adjoining towns to pay its just proportion of the expenditure, specifying the same; and the commissioners of highways in each of such towns shall forthwith serve a copy of such order upon the supervisor of each of their towns, who shall present the same to the board of supervisors, at their next annual meeting. The board of supervisors shall raise the amount charged upon each town by the order, and cause the same to be collected and paid to such persons or corporation as incurred the expenditure. The order shall be appealable.

§ 143. **Penalty, and notice on bridge.**—The commissioners of

highways may fix and prescribe a penalty, not less than one, nor more than five dollars, for riding or driving faster than a walk on any bridge in their town, whose chord is not less than twenty-five feet in length and put up and maintain in a conspicuous place at each end of the bridge, a notice in large characters, stating each penalty incurred.

§ 144. **Offense.**—Whoever shall ride or drive faster than a walk over any bridge, upon which notice shall have been placed, and shall then be, shall forfeit for every offense, the amount fixed by such commissioners, and specified in the notice.

§ 145. **Iron bridges.**—No town or its officers shall be compelled to accept or pay for an iron or steel bridge exceeding two hundred feet in length, or having a span or spans exceeding one hundred feet in length, constructed therein or upon its borders, until the state engineer and surveyor shall certify to the completion of the bridge, pursuant to the contract under which it shall have been constructed, with his approval of the manner of its construction and the material thereof; and all contracts made for the construction of any such bridge, shall be subject to the provisions of this section.

## ARTICLE VI.

### MISCELLANEOUS PROVISIONS.

SECTION 150. Papers, where filed.

- 151. When commissioners do not act.
- 152. Costs on motion.
- 153. Injuries to highways.
- 154. When town not liable for bridge breaking.
- 155. Steam traction engine on highway.
- 156. Trees, to whom they belong.
- 157. Carriages meeting to turn to the right.
- 158. Intemperate drivers.
- 159. Drivers, when to be discharged.
- 160. Leaving horses without being tied.
- 161. Owners of certain carriages liable for acts of drivers.
- 162. Term "carriage" defined.
- 163. Entitled to free use of highways.
- 164. Penalties, how recovered.
- \*165. Extent of this chapter.\*

SECTION 150. **Papers, where filed.**—All applications, certificates, appointments and other papers relating to the laying out, altering or discontinuing of any highway shall be filed by the com-

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\* So in the original.

missioners of highways as soon as a decision shall have been made thereon in the town clerk's office of their town.

§ 151. **When commissioners do not act.**—When any commissioner or other officer appointed by a court under this chapter shall neglect or be prevented from serving, the court which appointed him shall appoint another in his place.

§ 152. **Costs on motion.**—Costs of a motion to confirm, vacate or modify the report of commissioners appointed by the court to lay out, alter or discontinue a highway may be allowed in the discretion of the court not exceeding fifty dollars. Costs of any other motion in a proceeding in a court of record, authorized by this chapter, may be allowed in the discretion of the court not exceeding ten dollars.

§ 153. **Injuries to highways.**—Whoever shall injure any highway or bridge maintained at the public expense, by obstructing or diverting any creek, water-course or sluice, or by dragging logs or timber on its surface, or by any other act, or shall injure, deface or destroy any mile-stone or guide-post erected on any highway, shall for every such offense, forfeit treble damages.

§ 154. **When town not liable for bridge breaking.**—No town shall be liable for any damage resulting to person or property, by reason of the breaking of any bridge, by transportation on the same, of any vehicle or load, together weighing four tons or over; but any owner of such vehicle or load, or other person engaged in transporting or driving the same over any bridge, shall be liable for all damages resulting therefrom.

§ 155. **Steam traction engines on highway.**—The owner of a carriage, vehicle or engine, propelled by steam, his servant or agent, shall not allow, permit or use the same to pass over, through or upon any public highway or street, except upon railroad tracks, unless such owners, or their agents or servants, shall send before the same, a person of mature age, at least one-eighth of a mile in advance, who shall notify, and warn persons traveling or using such highway or street, with horses or other domestic animals, of the approach of such carriage, vehicle or engine; and at night such person shall carry a red light, except in incorporated villages and cities.

§ 156. **Trees, to whom they belong.**—All trees standing or lying on any land over which any highway shall be laid out, shall be for the proper use of the owner or occupant of such land, except such of them as may be requisite to make or repair the highway or bridges on the same land.

§ 157. **Carriages meeting to turn to the right.**—Whenever any persons traveling with any carriages, shall meet on any turnpike road or highway, the persons so meeting shall seasonably turn their carriages to the right of the center of the road, so as to permit such carriages to pass without interference or interruption, under the penalty of five dollars for every neglect or offense, to be recovered by the party injured.

§ 158. **Intemperate drivers not to be engaged.**—No person owning any carriage for the conveyance of passengers, running or traveling upon any highway or road, shall employ, or continue in employment, any person to drive such carriage, who is addicted to drunkenness, or to the excessive use of spirituous liquor; and if any such owner shall violate the provisions of this section, he shall forfeit at the rate of five dollars per day, for all the time during which he shall have kept any such driver in his employment.

§ 159. **Drivers, when to be discharged.**—If any driver, while actually employed in driving any such carriage, shall be guilty of intoxication, to such a degree as to endanger the safety of the passengers in the carriage, the owner of such carriage shall, on receiving written notice of the fact, signed by any one of said passengers, and certified by him on oath, forthwith discharge such driver from his employment; and every such owner, who shall retain, or have in his service within six months after the receipt of such notice, any driver who shall have been so intoxicated, shall forfeit at the rate of five dollars per day, for all the time during which he shall keep any such driver in his employment after receiving such notice.

§ 160. **Leaving horses without being tied.**—No driver of any carriage used for the purpose of conveying passengers for hire, shall leave the horses attached thereto, while passengers remain in the same, without first making such horses fast with a sufficient halter, rope or chain, or by placing the lines in the hands of some other person, so as to prevent their running; and if any such driver shall offend against the provisions of this section, he shall forfeit the sum of twenty dollars.

§ 161. **Owners of certain carriages liable for acts of drivers.**—The owners of every carriage running or traveling upon any turnpike road or highway, for the conveyance of passengers, shall be liable jointly and severally, to the party injured, for all injuries and damages done by any person in the employment of such owners, as a driver, while driving such carriage, whether the accident\* occasion-

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\* So in the original

ing such injury or damage be willful or negligent, or otherwise, in the same manner as such driver would be liable.

§ 162. **Term "carriages" defined.**—The term "carriage," as used in this article, shall be construed to include stage-coaches, wagons, carts, sleighs, sleds and every other carriage or vehicle used for the transportation of persons and goods, or either of them, and bicycles, tricycles and all other vehicles propelled by manumotive or pedomotive power.

§ 163. **Entitled to free use of highways.**—The commissioners, trustees, or other authorities having charge or control of any highway, public street, parkway, driveway or place, shall have no power or authority to pass, enforce, or maintain any ordinance, rule or regulation, by which any person using a bicycle or tricycle, shall be excluded or prohibited from the free use of any highway, public street, avenue, roadway, driveway, parkway or place, at any time when the same is open to the free use of persons having and using other pleasure carriages; but nothing herein, shall prevent the passage, enforcement, or maintenance of any regulation, ordinance or rule, regulating the use of bicycles or tricycles in highways, public streets, driveways, parkways and places, in such manner as to limit and determine the proper rate of speed with which such vehicles may be propelled, nor in such manner as to require, direct or prohibit the use of bells, lamps and other appurtenances, nor to prohibit the use of any vehicle upon that part of the highway, street or parkway, commonly known as the foot-path or sidewalk.

§ 164. **Penalties, how recovered.**—All penalties or forfeitures given in this chapter, and not otherwise specially provided for, shall be recovered by the commissioners of highways, in the name of the town in which the offense shall be committed; and when recovered, shall be applied by them in improving the highways and bridges in such town.

## ARTICLE VII.

### REGULATION OF FERRIES.

#### SECTION 170. Licenses.

171. Undertaking.

172. Appendages for rope ferries.

173. Superintendent of public works may lease right of passage.

174. When schedule to be posted.

SECTION 170. **Licenses.**—The county court in each of the counties of this state, or the city court of a city, may grant licenses for

keeping ferries in their respective counties and cities, to such persons as the court may deem proper, for a term not exceeding five years. No license shall be granted to a person, other than the owner of the land through which that part of the highway adjoining to the ferry shall run, unless the owner is not a suitable person or shall neglect to apply after being served with eight days written notice from such other person of the time and place at which he will apply for such license, or having obtained such license, shall neglect to comply with the conditions of the license, or maintain the ferry. Every license shall be entered in the book of minutes of the court by the clerk; and a certified copy thereof shall be delivered to the person licensed. When the waters over which any ferry may be used, shall divide two counties or cities, or a county and city, a license obtained in either of the counties or cities shall be sufficient to authorize transportation of persons, goods, wares and merchandise, to and from either side of such waters.

§ 171. **Undertaking.**—Every person applying for such license shall, before the same is granted, execute and file with the clerk of the court his undertaking, with one or more sureties, approved by the court, to the effect that he will attend such ferry with sufficient and safe boats and other implements, and so many men to work the same as shall be necessary during the several hours in each day, and at such rates as the court shall direct.

§ 172. **Appendages for rope ferries.**—Any person licensed to keep a ferry may, with the written consent of the commissioners of highways of the town where such ferry may be, erect and maintain within the limits of the highway, at such point as shall be designated in such consent, a post or posts, with all necessary braces and appendages, for a rope ferry.

§ 173. **Superintendent of public works may lease right of passage.**—The superintendent of public works may where ferries are now maintained at tide-water lease the right of passage for foot passengers across state lands adjoining tide water for a period not exceeding ten years, on such conditions as he may deem advantageous to the state.

§ 174. **When schedules to be posted.**—Every person licensed to operate or control any ferry in this state, or between this state and any other state, operating from or to a city of fifty thousand inhabitants or over, shall post in a conspicuous and accessible position outside and adjacent to each entrance to such ferry, and in at least



four accessible places, in plain view of the passengers upon each of the boats used on such ferry, a schedule plainly printed in the English language, of the rates of ferriage charged thereon, and authorized by law to be charged for ferriage over such ferry. If any such person shall fail to comply with the provisions of this section, or shall post a false schedule, he shall forfeit the sum of fifty dollars for each days neglect or refusal to post such schedule, or any of them, to be recovered by any person who shall sue therefor, in any court of competent jurisdiction.

## ARTICLE VIII.

### REPEALING AND OTHER CLAUSES.

SECTION 180. Laws repealed.

181. Saving clause.

182. Construction.

183. When to take effect  
Schedule.

SECTION 180. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

§ 181. Saving clause.—The repeal of a law, or any part of it specified in the annexed schedule, shall not affect or impair any act done, or right accruing, accrued, or acquired, or penalty, forfeiture, or punishment incurred prior to the time when this act takes effect, under or by virtue of the laws so repealed, but the same may be asserted, enforced, prosecuted, or inflicted, as fully and to the same extent, as if such laws had not been repealed; and all actions or proceedings, civil or criminal, commenced under or by virtue of the laws so repealed and pending February twenty-eighth, eighteen hundred and ninety-one, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing, unless it shall be otherwise specially provided by law.

§ 182. Construction.—The provisions of this chapter, so far as they are substantially the same as those laws existing on February twenty-eighth, eighteen hundred and ninety-one, shall be construed as a continuation of such laws, modified or amended, according to the language employed in this chapter, and not as new enactments; and references in laws not repealed to provisions of law incorporated

into this chapter and repealed, shall be construed as applying to the provisions so incorporated: Nothing in this chapter shall be construed to amend or repeal any provision of the Penal or Criminal Code.

§ 183. When to take effect.—This chapter shall take effect on the first day of March, eighteen hundred and ninety-one.

SCHEDULE OF LAWS REPEALED.

Revised Statutes..... Part I, chapter 16..... All.  
Revised Statutes..... Part I, chapter 20, title 13. All.

LAWS OF	Chapter	Sections.
1832 .....	107.....	All.
1833.....	149.....	All.
1832.....	274.....	All.
1834.....	267.....	All.
1835.....	154.....	All.
1836.....	122.....	All.
1837.....	431.....	All.
1840.....	300.....	All.
1841.....	225.....	All.
1845.....	180.....	5, 6, 7, 9, 12, 13, 14.
1847.....	455.....	3, 4, 5, 6, 7, 8, 9, 11, 12, 20, 21, 22, 23.
.....		
1853.....	63.....	All.
1853.....	135.....	All.
1853.....	174.....	All.
1855.....	255.....	All.
1857.....	383.....	All.
1857.....	491.....	All.
1857.....	615.....	1.
1857.....	639.....	All.
1858.....	51.....	All.
1858.....	103.....	All.
1860.....	61.....	All.
1860.....	468.....	All.
1861.....	30.....	All.
1861.....	311.....	All.
1862.....	243.....	All.
1863.....	93.....	All.
1863.....	444.....	All.
1864.....	395.....	All.
1865.....	442.....	All.
1865.....	522.....	7.
1866.....	180.....	All.

## THE HIGHWAY LAW.

Ch. 19, G. L.

LAWS OF	Chapter	Sections
1866.....	770.....	All.
1868.....	791.....	All.
1868.....	843.....	All.
1869.....	24.....	All.
1869.....	131.....	1.
1869.....	598.....	All.
1870.....	461.....	All.
1872.....	274.....	1.
1873.....	63.....	All.
1873.....	69.....	All.
1873.....	395.....	All.
1873.....	448.....	All.
1873.....	477.....	All.
1873.....	773.....	All.
1874.....	169.....	All.
1874.....	570.....	All.
1875.....	22.....	All.
1875.....	196.....	All.
1875.....	341.....	All.
1876.....	340.....	All.
1876.....	348.....	All.
1877.....	197.....	All.
1877.....	344.....	All.
1878.....	44.....	All.
1878.....	49.....	All.
1878.....	114.....	All.
1878.....	245.....	All.
1879.....	67.....	All.
1880.....	114.....	All.
1880.....	305.....	All.
1880.....	308.....	All.
1880.....	503.....	All.
1881.....	233.....	All.
1881.....	513.....	All.
1881.....	696.....	All.
1881.....	700.....	All.
1883.....	346.....	All.
1883.....	371.....	All.
1883.....	398.....	All.
1884.....	220.....	All.
1884.....	251.....	All.
1884.....	359.....	All.
1884.....	396.....	All.
1884.....	479.....	All.
1886.....	269.....	All.
1886.....	344.....	All.
1886.....	422.....	All.

LAWS OF	Chapter	Sections.
1886.....	452.....	All.
1887.....	471.....	All.
1887.....	526.....	All.
1887.....	704.....	All.
1888.....	240.....	All.
1888.....	260.....	All.
1889.....	120.....	All.
1889.....	146.....	All.
1889.....	259.....	All.



# THE TOWN LAW.

BEING CHAPTER 569 OF THE LAWS OF 1890, AS AMENDED BY CHAP.  
254 OF THE LAWS OF 1891, AND BY CHAPS. 61, 92,  
AND 252 OF THE LAWS OF 1892.

AN ACT in relation to towns, constituting chapter twenty of the  
general laws.

## CHAPTER XX OF THE GENERAL LAWS.

### THE TOWN LAW.

ARTICLE 1. Towns as corporations (§§ 1-5).

2. Town meetings and the election and tenure of town officers (§§ 10-89).
3. Qualifications of town officers (§§ 50-67).
4. General duties of town officers (§§ 80-96).
5. Division fences (§§ 100-108).
6. Strays and chattels doing damage, floating timbers and wrecks (§§ 120-150).
7. The town board (§§ 160-183).
8. Town-houses, lock-ups and burial grounds (§§ 190-195).
9. The municipal debt law (§§ 210-214).
10. Town business in counties containing more than three hundred thousand inhabitants (§§ 220-232).
11. Repealing and other clauses (§§ 240-248).

## ARTICLE I.

### TOWNS AS CORPORATIONS.

SECTION 1. Short title.

2. Town, a municipal corporation.
3. Disposition of town property, upon alteration of town boundaries.
4. Apportionment of debts.
5. Meetings of town boards, in two or more towns.

SECTION 1. Short title.—This chapter shall be known as the town law.

§ 2. Town, a municipal corporation.—A town is a municipal corporation comprising the inhabitants within its boundaries, and formed for the purpose of exercising such powers and discharging such duties of local government and administration of public affairs as have been, or may be conferred or imposed upon it by law



§ 3. **Disposition of town property, upon alteration of town boundaries.**— When the boundaries of a town owning real or personal property shall be altered, either by a division of a town into two or more towns or by the annexation of a part of its territory to another town or towns, the town boards of the several towns affected by such alterations shall meet as soon as may be after the first town meetings subsequently held in such towns, and shall make such agreement concerning the disposition to be made of such real and personal property, and the apportionment of the proceeds, as they shall deem equitable, and take all measures, and execute all conveyances necessary to carry such agreement into effect. If no such agreement shall be made within six months after such town meetings, the town board of each town in which any portion of such real property, or in whose possession any of such personal property shall be, shall, as soon as may be, sell and convey such part of the real property as shall be included within the limits of the town as fixed by such alteration, and such of the personal property as may be in its possession; and the proceeds arising from the sale shall be apportioned between the several towns interested therein, by the town boards of all the towns, according to the amount of the taxable property of the town divided or altered, as the same existed immediately before such division or alteration, to be ascertained by the last assessment-roll of such town. But no town cemetery or burial-ground shall be sold or divided, but the same shall belong to the town within which it may be situated after a division of the town shall have been made, and no lots heretofore granted by the people of this state to any town for the support of the gospel and of schools, commonly called the gospel and school lots, shall be so sold or apportioned.

§ 4. **Apportionment of debts.**— Debts owed by a town so divided or altered, shall be apportioned in the same manner as the personal property of the town; and each town shall thereafter be charged with its share of such debts, according to the apportionment.

§ 5. **Meetings of town boards of two or more towns.**— Whenever a meeting of the town boards of two or more towns shall be required, in order to carry into effect the provisions of this article, such meeting may be called by either of the supervisors of such towns, by giving at least three days' written notice to all the other members of such town boards of the time and place of such meeting.

## ARTICLE II.

## TOWN MEETINGS, AND THE ELECTION AND TENURE OF TOWN OFFICERS.

- SECTION 10. Time and place of annual town meeting.
11. Changing place of annual town meeting.
  12. Election of officers.
  13. Term of office.
  14. Justices of the peace.
  15. Assessors.
  16. Commissioners of excise.
  17. Commissioners of highways.
  18. Overseers of the poor.
  19. Additional inspectors of election.
  20. Ballots for full term and vacancies.
  21. Justices in new towns.
  22. When more than four justices may hold office.
  23. Fence viewers.
  24. Powers of annual town meetings.
  25. Special town meetings.
  26. Notice of town meetings.
  27. Presiding officers of town meeting.
  28. Clerk of meeting.
  29. Duration of town meeting.
  30. Challenges.
  31. Minutes of proceedings.
  32. Transaction of business not requiring a ballot.
  33. Votes to expend over five hundred dollars.
  34. Notice of propositions to be determined by ballot.
  35. Proclamation of opening and closing polls.
  36. Erection or discontinuance of pounds.
  37. Election of pound-masters.
  38. Balloting.
  39. Canvass of votes.
  - \*43. Special constables.

[Thus amended by L. 1892, chap. 252.]

§ 10. Time and place of annual town meeting.—The citizens of the several towns of this state, except in a county containing upwards of six hundred thousand or more inhabitants as shown by the last federal or state enumeration qualified by the constitution to vote for elective officers, shall annually, after the year eighteen hundred and ninety-one, on the second Tuesday of February, assemble and hold town meetings in their respective towns, at such place in each town as the electors thereof at their annual town meeting shall from time to time appoint. When any town shall have been authorized by the board of supervisors of the county to hold its annual town meetings in its separate election districts the electors in each of such election districts may, in like manner, appoint the place of holding

\* So in the original.

their annual town meeting in such election district. If no place or places shall have been fixed for such meeting, the same shall be held at the place or places of the last annual town meeting in the town or election district. The board of supervisors of any county may, by resolution adopted at any meeting, fix the day when all the annual town meetings in such county shall be held, which shall be some day, between the first day of February and the first day of May inclusive, and such day when so fixed shall not be changed for the period of three years. The annual town meetings in the towns in each county containing more than three hundred thousand and less than six hundred thousand inhabitants according to the then last preceding state or federal enumeration shall be held on the second Tuesday of March, eighteen hundred and ninety-two, and annually thereafter on the second Tuesday of March until otherwise directed by the board of supervisors of such county. At each such town meeting in the year eighteen hundred and ninety-two there shall be elected justices of the peace and such other town officers as are now required by law to be elected whether by expiration of term or otherwise, and the successors of those town officers respectively who were elected at the general election in eighteen hundred and ninety-one and whose terms may expire at or before the town meeting of eighteen hundred and ninety-three. But nothing herein contained shall be so construed as to abridge or extend the terms of any of the town officers who were elected or appointed at the general election in the year eighteen hundred and ninety-one, but their terms of office shall continue until the expiration of the term for which such officers were elected or appointed, and at the expiration thereof their successors elected or appointed pursuant to this act as hereby amended shall enter upon the discharge of their duties and serve until the expiration of the terms for which they shall have been severally elected or appointed and until their successors are elected and qualified. [*Thus amended by L. 1892, chap. 61.*]

§ 11. **Changing place of annual town meeting.**—The electors of a town may, upon the application of fifteen electors therein, to be filed with the town clerk twenty days before an annual town meeting is to be held, determine at such meeting, by ballot, where future town meetings shall be held. Where town meetings in any town are held in separate election districts, the electors of each district may, at an annual town meeting, determine by resolution where its future town meetings shall be held.

§ 12. **Election of officers.**—There shall be elected at the annual

town meeting in each town, by ballot, one supervisor, one town clerk, one justice of the peace, one assessor, one collector, one commissioner of excise, one or two overseers of the poor, except in the counties of Richmond and Kings; one, two or three commissioners of highways, not more than five constables, and two inspectors of election for each election district in the town. If there shall be any vacancies in the offices of justice of the peace, assessor, commissioners of excise, commissioners of highways, or overseers of the poor, of any town at the time of holding its annual town meeting, persons shall then also be chosen to fill such vacancies, who shall hold their offices for the residue of the unexpired term for which they are respectively elected. All such officers, except justice of the peace, shall hold their respective offices until others are elected or appointed in their places and have qualified.

§ 13. **Term of office.**—Supervisors, town clerks, inspectors of election and constables, when elected, shall hold their respective offices for one year, and until others are elected or appointed in their places, and have qualified. But whenever there is or shall be a change in the time of holding town meetings in any town, persons elected to such offices at the next annual town meeting after such change shall take effect, shall enter upon the discharge of their duties at the expiration of the term of such, their predecessors, and serve until the next annual town meeting thereafter or until their successors are elected and qualified.

§ 14. **Justices of the peace.**—There shall be four justices of the peace in each town, divided into four classes, one of whom shall be annually elected and hold his office four years, commencing on the first day of January next succeeding his election.

§ 15. **Assessors.**—There shall be three assessors in each town, divided into three classes, each of whom shall hold his office three years.

§ 16. **Commissioners of excise.**—There shall be three commissioners of excise in each town, composing the board of excise of such town, who shall be divided into three classes, each of whom shall hold his office three years. No supervisor, town clerk, justice of the peace or trustee of a village shall be a commissioner of excise.

§ 17. **Commissioners of highways.**—The electors of each town may, at their annual town meeting, determine by resolution whether there shall be elected in their town one or three commissioners of highways. If only one shall be determined upon, and it shall be a town having but one commissioner of highways, one commissioner

only for a full term shall thereafter be elected, who shall hold his office for one year. If three shall be determined upon, three commissioners of highways shall then be elected for the terms of one, two or three years respectively; and the person having the greatest number of votes for each term so designated, shall be deemed duly elected, and shall hold his office for the term so designated, and one commissioner only, for a full term, shall thereafter annually be elected, who shall hold his office for three years. Whenever any town shall have determined upon having three commissioners of highways, and shall desire to have but one, the electors thereof may do so by a resolution taken at an annual town meeting, and when such resolution shall have been adopted, no other commissioner shall be elected or appointed until the term or terms of those in office at the time of adopting the resolution shall expire or become vacant; and they may act until their terms shall severally expire or become vacant, as fully as if three continued in office. When there shall be but one commissioner of highways in any town, he shall possess all the powers and discharge all the duties of commissioners of highways as prescribed by law.

§ 18. **Overseers of the poor.**—The electors of each town may, at their annual town meeting, determine by resolution whether they will elect one or two overseers of the poor, and the number so determined upon shall be the number to be elected. If only one be determined upon, one overseer of the poor shall thereafter be annually elected, who shall hold his office for one year. If two overseers of the poor are determined upon, then two overseers of the poor shall be elected for the terms of one and two years respectively; and each elector shall designate on his ballot the person intended for the term one or two years, and the person having the greatest number of votes for such term so designated shall be deemed duly elected, and shall hold his office for the term so designated; and one overseer of the poor only, for the full term, shall thereafter annually be elected, who shall hold his office for two years. Whenever any town shall have determined upon having two overseers of the poor, and shall desire to have but one, the electors thereof may so determine by a resolution at an annual town meeting, and thereafter no other overseer shall be elected or appointed, until the term of the overseer continuing in office at the time of adopting the resolution shall expire or become vacant, and the overseer in office may continue to act until his term shall expire or become vacant. When there shall be but one overseer of the poor in any town, he shall

possess all the powers and discharge all the duties of overseers of the poor, as prescribed by law.

§ 19. **Additional inspectors of election.**—The presiding officers of each annual town meeting shall, immediately after the votes are canvassed, appoint by writing, another inspector of election for each election district, to be associated with the two elected, to be selected from the two persons in each election district who shall have the highest number of votes, next to the two inspectors elected; and no ballot shall be counted, upon which more than two names for inspectors shall appear.

§ 20. **Ballots for full term and vacancies.**—When the electors of any town are entitled to vote for more than one justice of the peace, assessor, commissioner of excise, commissioner of highways or overseer of the poor, each elector may designate upon his ballot the person intended for a full term and for a vacancy, and if there are two vacancies, they may be designated as the longer and the shorter vacancy; and if three vacancies, the longer, shorter and shortest vacancy, and each person having the greatest number of votes with reference to each designation, shall be deemed duly elected for the term or vacancy designated. If ballots are voted without designation, the first name on the ballot shall be deemed as intended for the full term of the office voted for, the second name for the longer vacancy, the third name for the shorter vacancy and the fourth name for the shortest vacancy. The provisions of this section shall apply to new towns erected; and officers to be elected in such towns, except for a full term, shall be deemed elected to fill vacancies.

§ 21. **Justices in new towns.**—If there be one or more justices of the peace residing in a new town, when erected, they shall be deemed justices of the peace thereof, and shall hold their offices according to their respective classes; and only so many shall be elected as shall be necessary to complete the number of four for the town.

§ 22. **When more than four justices may hold office.**—If by the erection of a new town, or the annexation of a part of one town to another, there shall at any time be more than four justices of the peace residing in any town, they shall hold and exercise their offices in the town in which they reside, according to their classes respectively; but on the expiration of the term of office of two or more justices, being in the same class, only one person shall be elected to fill the vacancy in that class. Whenever by the erection



of a new town, or the annexation of a part of one town to another, any town shall be deprived of one or more justices of the peace, by their residence being within the part set off, the inhabitants of such town shall, at its next annual town meeting, supply the vacancy so produced in the classes to which such justices belong.

**§ 23. Fence viewers.**—The assessors and commissioners of highways elected in every town shall, by virtue of their offices, be fence viewers of their town.

**§ 24. Powers of annual town meetings.**—The electors of each town may, at their annual town meeting :

1. Determine what number of constables, not exceeding five, and pound-masters shall be chosen in their town for the then ensuing year ;

2. Elect such town officers as may be required to be chosen ;

3. Direct the prosecution or defense of all actions and proceedings in which their town is interested, and the raising of such sum therefor as they may deem necessary ;

4. Take measures and give directions for the exercise of their corporate powers ;

5. Make provisions and allow rewards for the destruction of noxious weeds and animals, as they may deem necessary, and raise money therefor ;

6. Establish and maintain pounds at such places within their town as may be convenient ;

7. Direct public nuisances in their town, affecting the security of life and health, to be changed, abated or removed, and raise a sum of money sufficient to pay the expense thereof ;

8. Make from time to time such prudential rules and regulations as they may think proper, for the better improving of all land owned by their town, in its corporate capacity, whether common or otherwise ; for maintaining and amending partition or other fences around or within the same, and directing the time and manner of using such land ;

9. Make like rules and regulations for ascertaining the value of all fences in such town and for impounding animals ; impose penalties on persons offending against any rule or regulation established by their town, excepting such as relate to the keeping and maintaining of fences, as they may think proper, not exceeding five dollars for each offense, and apply the same, when recovered, in such manner as they may think most conducive to the interest of the town ;

10. In towns bound to support their own poor, direct such sum to be raised, as they may deem necessary, for such purpose, and to defray any charges that may exist against the overseers of the poor in their town ;

11. Determine any other question lawfully submitted to them ;

Every order or direction, and all rules and regulations made by any town meeting, shall remain in force until the same shall be altered or repealed at some subsequent town meeting.

§ 25. **Special town meetings.**—Special town meetings shall also be held whenever twenty-five taxpayers upon the last town assessment-roll shall, by written application addressed to the town clerk, require a special town meeting to be called, for the purpose of raising money for the support of the poor ; also to vote upon the question of raising and appropriating money for the construction and maintenance of any bridges which the town may be authorized by law to erect or maintain ; or for the purpose of determining in regard to the prosecution or defense of actions, or the raising of money therefor ; and to vote upon any proposition which might have been determined by the electors of the town at the last annual town meeting, but was not acted upon thereat. Special town meetings may also be held upon the like application of the supervisor commissioners of highways, or overseers of the poor, to determine questions pertaining to their respective duties as such officers, and which the electors of a town have a right to determine.

§ 26. **Notices of town meetings.**—No previous notice need be given of the annual town meetings ; but the town clerk shall, at least ten days before the holding of any special town meeting cause notice thereof under his hand, to be posted conspicuously in at least four of the most public places in the town ; which notices shall specify the time, place and purposes of the meeting.

§ 27. **Presiding officers of town meetings.**—The justices of the peace of each town shall attend every town meeting held therein, and such of them as shall be present, shall preside at such meeting, and see that the same is orderly and regularly conducted, and shall have the like authority to preserve order, to enforce obedience and to commit for disorderly conduct, as is possessed by the board of inspectors at a general election. If there be no justice of the peace present at such meeting, then such person as shall be chosen for that purpose by the electors present, shall preside and shall possess the like powers as the justice ; such person appointed

shall take the constitutional oath of office, before entering upon his duties as such presiding officer.

§ 28. **Clerk of meeting.**—The town clerk last before elected or appointed, or, if he be absent, such person as shall be chosen by the electors present, shall be the clerk of the town meeting, and shall keep faithful minutes of its proceedings, in which he shall enter at length every order or direction, and all rules and regulations made by such meeting; such person chosen by the electors present shall take the constitutional oath of office before entering upon his duties as such clerk.

§ 29. **Duration of town meeting.**—Town meetings shall be kept open for the purposes of voting in the day-time only, between the rising and setting of the sun, and, if necessary, may be continued by a vote of the meeting during the next day, and no longer, and be adjourned to another place not more than one-fourth of a mile from the place where it was appointed.

§ 30. **Challenges.**—If any person offering to vote at any town meeting or upon any question arising at such town meeting shall be challenged as unqualified, the presiding officers shall proceed thereupon in the manner prescribed in the general election law when challenges are made, which law, with its penalties, is made applicable thereto, and no person whose vote shall have been received upon such challenge shall be again challenged upon any other question arising at the same town meeting.

§ 31. **Minutes of proceedings.**—The poll-list and minutes of the proceedings of every town meeting, subscribed by the clerk of such meeting, and by the officers presiding, shall be filed in the office of the town clerk within two days after such meeting and there preserved.

§ 32. **Transaction of business not requiring a ballot.**—The business of the towns which requires a vote of the people otherwise than by ballot shall be commenced at twelve o'clock noon of the day of the annual town meeting and completed without adjournment. No question involving the expenditure of money shall be introduced after two o'clock in the afternoon of the same day. All questions upon motion made at town meetings shall be determined by the majority of the electors voting, and the officers presiding at such meeting shall ascertain and declare the result of the votes upon each question.

§ 33. **Votes to expend over five hundred dollars.**—All votes in town meetings upon any proposition to raise or appropriate money

or incur any town liability exceeding five hundred dollars shall be by ballot; if five hundred dollars or less may be viva voce, unless ballot is required by the law authorizing the expenditure.

**§ 34. Notice of propositions to be determined by ballot.—**No proposition or other matter than the election of officers, shall be voted upon by ballot at any town meeting, unless the town officers or other persons entitled to demand a vote of the electors of the town thereon, shall, at least twenty days before the town meeting, file with the town clerk a written application, plainly stating the question they desire to have voted upon, and requesting a vote thereon at such town meeting. When town officers, as such, make the application for a vote to raise money for purposes pertaining to their duties, they shall file with their application a statement of their account to date, with the facts and circumstances which, in their opinion, make the appropriation applied for necessary, and their estimation of the sum necessary for the purpose stated, which statement may be examined by any elector of the town, and shall be publicly read by the town clerk at the meeting when and where the vote is taken, at the request of any elector. The town clerk shall, at the expense of his town, give at least ten days' notice, posted conspicuously in at least four of the most public places in town, of any such proposed question, and that a vote will be taken by ballot at the town meeting mentioned. He shall also, at the expense of his town, provide a ballot-box, properly labeled, briefly indicating the question to be voted upon, into which all ballots voted upon the question indicated shall be deposited. He shall also prepare and have at the town meeting a sufficient number of written or printed ballots, both for and against the question to be voted upon, for the use of the electors. The vote shall be canvassed, the result determined and entered upon the minutes of the meeting, the same as votes given for town officers.

**§ 35. Proclamation of opening and closing polls.—**Before the electors shall proceed to elect any town officer, proclamation shall be made of the opening of the polls, and proclamation shall in like manner be made at each adjournment and of the opening and closing of the polls until the election be ended.

**§ 36. Erection or discontinuance of pounds.—**Whenever the electors of any town shall determine at an annual town meeting, to erect one or more pounds therein, and whenever a pound shall now be erected in any town, the same shall be kept under the care and direction of a pound-master, to be elected or appointed for that pur-

pose. The electors of any town may, at annual town meeting, discontinue any pounds therein.

§ 37. **Election of pound-masters.**—Pound-masters may be elected either (1) by ballot; (2) by ayes and noes, or (3) by the rising or dividing of the electors, as the electors may determine.

§ 38. **Balloting.**—When the electors vote by ballot, all the officers voted for, except commissioners of excise, shall be named in one ballot, which shall contain written or printed, or partly written and partly printed, the names of the persons voted for, and the offices to which such persons are intended to be elected, and shall be delivered to the presiding officers so folded as to conceal the contents, and shall be deposited by such officers in a box, to be constructed, kept and disposed of, as near as may be, in the manner prescribed in the general election law. Commissioners of excise shall be voted for upon a separate ballot, which shall be deposited in a separate box marked "Excise." A poll-list shall be kept by the clerk of the meeting on which shall be entered the name of each person voting by ballot.

§ 39. **Canvass of votes.**—At the close of the polls at any town meeting, the canvassers shall proceed to canvass the votes publicly at the place where the meeting was held. Before the ballots are opened they shall be counted and compared with the poll-list, and the like proceedings shall be had as to ballots folded together, and difference in number as are prescribed in the general election law. The result of the canvass shall be read by the clerk to the persons there assembled, which shall be notice of the election to all voters upon the poll-list. The clerk shall also enter the result at length in the minutes of the proceedings of the meeting kept by him, and shall, within ten days thereafter, transmit to any person elected to a town office, whose name is not on the poll-list as a voter, a notice of his election.

\*§ 43. **Special constables.**—The supervisor and two justices of the peace of any town may, when in their judgment necessary for the preservation of the public peace during any period of three days or less, appoint five or less special constables of such town for such period. Duplicate certificates of the appointment, signed by such supervisor and such justices of the peace as such, shall be delivered to each of such special constables, specifying the days for which he is so appointed, and one of such duplicates shall be by such special constables filed with the town clerk of said town. The supervisor of such town shall cause to be provided and furnished to each of such special constables a badge on which shall be plainly printed

the words "special constable," which shall be worn conspicuously by each of such special constables while serving as such, and be delivered by him on the completion of his service to the supervisor of such town, who shall preserve the same for future use and deliver the same to his successor in office, who shall preserve the same when not in use. Each of such special constables, while in office as such, shall be a peace officer, and have all the powers and be subject to all the duties and liabilities of a constable of such town in all criminal actions and proceedings and special proceedings of a criminal nature, and shall be entitled to receive compensation from the town at the rate of two dollars per day during his term of office. [*This section added by L. 1892, chap. 252.*]

### ARTICLE III.

#### QUALIFICATION OF TOWN OFFICERS.

##### SECTION 50. Eligibility to town offices.

51. Oath of office.
52. Collectors' undertaking.
53. Filing and lien of collectors' undertaking.
54. Constables' undertaking.
55. Refusal to serve as overseer of highways or poundmaster.
56. Town officers to administer oaths.
57. Certificate of election of justices.
58. Justices' undertakings.
59. Official acts legalized.
60. Supervisors' undertaking.
61. Undertaking of commissioner of excise
62. Undertaking of overseer of the poor.
63. Undertaking of commissioner of highways
64. Resignation of town officers.
65. Filling of vacancies.
66. Form of undertaking, and liability thereon.
67. County clerk to report omissions of town officers.

§ 50. **Eligibility to town offices.**—Every elector of the town shall be eligible to any town office, except inspectors of election shall also be able to read or write. But no county treasurer, superintendent of the poor, school commissioner, trustee of a school district, or United States loan commissioner, shall be eligible to the office of supervisor of any town or ward in this state.

§ 51. **Oath of office.**—Every person elected or appointed to any town office, except justice of the peace, shall before he enters on the duties of his office, and within ten days after he shall be notified of



his election or appointment, take and subscribe before some officer authorized by law to administer oaths in his county, the constitutional oath of office, and such other oath as may be required by law, which shall be administered and certified by the officer taking the same without reward, and shall within eight days be filed in the office of the town clerk, which shall be deemed an acceptance of the office ; and a neglect or omission to take and file such oath, or a neglect to execute and file, within the time required by law, any official bond or undertaking, shall be deemed a refusal to serve, and the office may be filled as in case of vacancy.

§ 52. **Collector's undertaking.**—Every person elected or appointed to the office of collector, before he enters upon the duties of his office, and within eight days after he receives notice of the amount of taxes to be collected by him, shall execute an undertaking with two or more sureties, to be approved by the supervisor, to the effect that he will well and faithfully execute his duties as collector, pay over all moneys received by him, and account in the manner and within the time provided by law for all taxes upon the assessment-roll of his town delivered to him for the ensuing year, and shall deliver such undertaking to the supervisor of the town.

§ 53. **Filing and lien of collector's undertaking.**—The supervisor shall, within six days thereafter, file the undertaking, with his approval indorsed thereon, in the office of the county clerk, who shall make an entry thereof, in a book to be provided for the purpose, in the same manner as judgments are entered of record ; and every such undertaking shall be a lien on all the real estate held jointly or severally by the collector or his sureties within the county, at the time of the filing thereof, and shall continue to be such lien, until its condition, together with all costs and charges which may accrue by the prosecution thereof, shall be duly satisfied.

§ 54. **Constable's undertakings.**—Every person elected or appointed to the office of constable shall, before he enters on the duties of his office, and within ten days after he shall be notified of his election or appointment, execute in the presence of the supervisor or town clerk of the town, with at least two sufficient sureties, to be approved by such supervisor or town clerk, an undertaking to the effect that such constable and his sureties will pay to each and every person, who may be entitled thereto, all such sums of money as the constable may become liable to pay on account of any execution which shall be delivered to him for collection ; and also pay each and every person for any damages which he may sustain from or by

any act or thing done by such constable by virtue of his office. The supervisor or town clerk shall indorse on the undertaking his approval of the sureties therein named, and shall cause the same to be filed in the office of the town clerk within ten days thereafter.

**§ 55. Refusal to serve as overseer of highways or pound-master.**—If any person chosen or appointed to the office of overseer of highways or pound-master shall refuse to serve, he shall forfeit to the town the sum of ten dollars.

**§ 56. Town officers to administer oaths.**—Any town officer may administer any necessary oath in any matter or proceeding lawfully before him, or to any paper to be filed with him as such officer.

**57. Certificate of election of justices.**—The clerk of every town meeting, at which an election for justice of the peace shall have been had, shall, within ten days thereafter, transmit to the clerk of his county a certificate of the result of such election under his hand, which shall be presumptive evidence of the facts therein certified.

**§ 58. Justices' undertakings.**—Every justice of the peace elected or appointed in any of the towns or cities of this state, except the city of New York, and any city whose charter requires such officer to give a bond or undertaking, shall, before he enters upon the duties of his office, execute an undertaking with two sureties to be approved by the supervisor of the town, or the town clerk thereof where the justice of the peace is also supervisor of the town, or the common council of the city in which the justice shall reside, to the effect that he will pay over on demand, to the officer, person or persons entitled to the same, all moneys received by him by virtue of his office, and file the undertaking in the office of the clerk of the city or town in which he resides. Every justice shall also, on or before the fifteenth day of January next succeeding his election, file with the county clerk a certificate of the clerk of the city or town in which he resides, that he has filed such undertaking, and thereupon take before the county clerk his oath of office; but, if elected or appointed to fill a vacancy, at the time existing or in any new town, he shall file such undertaking and certificate and take the oath of office, and enter upon the duties thereof, within fifteen days after notice of his election or appointment. No justice of the peace shall take his oath of office until he shall have filed such certificate with the county clerk.

**§ 59. Official acts legalized.**—The official acts heretofore done of every justice of the peace, duly elected or appointed to the office,

so far as such official acts may be affected, impaired or questioned, by reason of the failure of any such justice to take and subscribe the official oath, or give an official bond as required by law, are hereby legalized, ratified and confirmed, and any justice of the peace heretofore elected or appointed to the office who has neglected to file an official bond within the time prescribed by law, may file an undertaking as herein required, within sixty days from and after the passage of this act, and the same shall have all the force, effect and validity as if the bond had been filed within the time required by law. Nothing herein contained shall affect any action or proceeding now pending.

**§ 60. Supervisors' undertaking.**—Every supervisor hereafter elected or appointed shall, within thirty days after entering upon his office, make and deliver to the town clerk of the town his undertaking, with such sureties as the town board shall prescribe, to the effect that he will well and faithfully discharge his official duties as such supervisor, and that he will well and truly keep, pay over and account for all moneys and property including the local school fund, if any, belonging to his town and coming into his hands as such supervisor; and such undertaking shall, after its execution, be presented to the town board for their approval as to its form, and the sufficiency of the sureties therein, and until the same shall be so approved, none of the moneys, books, documents, papers or property of the town shall be turned over or delivered to such supervisor elect.

**§ 61. Undertaking of commissioner of excise.**—Each commissioner of excise shall, before he enters upon the duties of his office, execute an undertaking to be approved by the supervisor of his town, to the effect that he will pay over to the supervisor of his town, within thirty days after the receipt thereof, all moneys received by him as such commissioner of excise, which undertaking shall be delivered to the supervisor, and by him filed in the office of the town clerk within ten days thereafter.

**§ 62. Undertaking of overseer of the poor.**—Every person elected or appointed overseer of the poor in any town shall, within ten days after being notified of his election or appointment, execute an undertaking with one or more sureties, to be approved by the supervisor of his town, to the effect that he will faithfully discharge the duties of his office, and will pay according to law all moneys which shall come into his hands as such overseer, which undertaking shall be delivered to the supervisor and filed by him in the office of the town clerk within ten days thereafter.

**§ 63. Undertaking of commissioner of highways.**—Every commissioner of highways shall, within ten days after notice of his election or appointment, execute an undertaking with two or more sureties, to be approved by the supervisor of his town, to the effect that he will faithfully discharge his duties as such commissioner, and within ten days after the expiration of his term of office, pay over to his successor all moneys remaining in his hands as such commissioner, and render to such successor a true account of all moneys received and paid out by him as such commissioner, which undertaking shall be delivered to the supervisor, and filed by him in the office of the town clerk within ten days thereafter.

**§ 64. Resignation of town officers.**—Any three justices of the peace of a town may, for sufficient cause shown to them accept the resignation of any town officer of their town; and whenever they shall accept any such resignation, they shall forthwith give notice thereof to the town clerk of the town.

**§ 65. Filling of vacancies.**—When a vacancy shall occur or exist in any town office, the town board or a majority of them may, by an instrument under their hands and seals, appoint a suitable person to fill the vacancy, and the person appointed, except justices of the peace, shall hold the office until the next annual town meeting. A person so appointed to the office of justice of the peace shall hold the office until the next annual town meeting, unless the appointment shall be made to fill the vacancy of an officer whose term will expire on the thirty-first day of December next thereafter, in which case the term of office of the person so appointed shall expire on the thirty-first day of December next succeeding his appointment. The board making the appointment shall cause the same to be forthwith filed in the office of the town clerk, who shall forthwith give notice to the person appointed. A copy of the appointment of a justice of the peace shall also be filed in the office of the county clerk, before the person appointed shall be authorized to act.

**§ 66. Form of undertaking, and liability thereon.**—Every undertaking of a town officer, as provided by this chapter or otherwise, must be executed by such officer and his sureties and acknowledged or proven and certified in like manner as debts to be recorded, and the approval indorsed thereon. The parties executing such undertaking shall be jointly and severally liable, regardless of its form in that respect, for the damages to any person or party by reason of a breach of its terms.

**§ 67. County clerk to report omissions of town officers.**—The

of a new town, or the annexation of a part of one town to another, any town shall be deprived of one or more justices of the peace, by their residence being within the part set off, the inhabitants of such town shall, at its next annual town meeting, supply the vacancy so produced in the classes to which such justices belong.

**§ 23. Fence viewers.**—The assessors and commissioners of highways elected in every town shall, by virtue of their offices, be fence viewers of their town.

**§ 24. Powers of annual town meetings.**—The electors of each town may, at their annual town meeting : .

1. Determine what number of constables, not exceeding five, and pound-masters shall be chosen in their town for the then ensuing year ;

2. Elect such town officers as may be required to be chosen ;

3. Direct the prosecution or defense of all actions and proceedings in which their town is interested, and the raising of such sum therefor as they may deem necessary ;

4. Take measures and give directions for the exercise of their corporate powers ;

5. Make provisions and allow rewards for the destruction of noxious weeds and animals, as they may deem necessary, and raise money therefor ;

6. Establish and maintain pounds at such places within their town as may be convenient ;

7. Direct public nuisances in their town, affecting the security of life and health, to be changed, abated or removed, and raise a sum of money sufficient to pay the expense thereof ;

8. Make from time to time such prudential rules and regulations, as they may think proper, for the better improving of all lands owned by their town, in its corporate capacity, whether commons or otherwise ; for maintaining and amending partition or other fences around or within the same, and directing the time and manner of using such land ;

9. Make like rules and regulations for ascertaining the sufficiency of all fences in such town and for impounding animals ; impose such penalties on persons offending against any rule or regulation established by their town, excepting such as relate to the keeping and maintaining of fences, as they may think proper, not exceeding ten dollars for each offense, and apply the same, when recovered, in such manner as they may think most conducive to the interests of their town ;

10. In towns bound to support their own poor, direct such sum to be raised, as they may deem necessary, for such purpose, and to defray any charges that may exist against the overseers of the poor in their town ;

11. Determine any other question lawfully submitted to them ;

Every order or direction, and all rules and regulations made by any town meeting, shall remain in force until the same shall be altered or repealed at some subsequent town meeting.

§ 25. **Special town meetings.**—Special town meetings shall also be held whenever twenty-five taxpayers upon the last town assessment-roll shall, by written application addressed to the town clerk, require a special town meeting to be called, for the purpose of raising money for the support of the poor ; also to vote upon the question of raising and appropriating money for the construction and maintenance of any bridges which the town may be authorized by law to erect or maintain ; or for the purpose of determining in regard to the prosecution or defense of actions, or the raising of money therefor ; and to vote upon any proposition which might have been determined by the electors of the town at the last annual town meeting, but was not acted upon thereat. Special town meetings may also be held upon the like application of the supervisor commissioners of highways, or overseers of the poor, to determine questions pertaining to their respective duties as such officers, and which the electors of a town have a right to determine.

§ 26. **Notices of town meetings.**—No previous notice need be given of the annual town meetings ; but the town clerk shall, at least ten days before the holding of any special town meeting cause notice thereof under his hand, to be posted conspicuously in at least four of the most public places in the town ; which notices shall specify the time, place and purposes of the meeting.

§ 27. **Presiding officers of town meetings.**—The justices of the peace of each town shall attend every town meeting held therein, and such of them as shall be present, shall preside at such meeting, and see that the same is orderly and regularly conducted, and shall have the like authority to preserve order, to enforce obedience and to commit for disorderly conduct, as is possessed by the board of inspectors at a general election. If there be no justice of the peace present at such meeting, then such person as shall be chosen for that purpose by the electors present, shall preside and shall possess the like powers as the justice ; such person appointed



shall take the constitutional oath of office, before entering upon his duties as such presiding officer.

§ 28. **Clerk of meeting.**—The town clerk last before elected or appointed, or, if he be absent, such person as shall be chosen by the electors present, shall be the clerk of the town meeting, and shall keep faithful minutes of its proceedings, in which he shall enter at length every order or direction, and all rules and regulations made by such meeting; such person chosen by the electors present shall take the constitutional oath of office before entering upon his duties as such clerk.

§ 29. **Duration of town meeting.**—Town meetings shall be kept open for the purposes of voting in the day-time only, between the rising and setting of the sun, and, if necessary, may be continued by a vote of the meeting during the next day, and no longer, and be adjourned to another place not more than one-fourth of a mile from the place where it was appointed.

§ 30. **Challenges.**—If any person offering to vote at any town meeting or upon any question arising at such town meeting shall be challenged as unqualified, the presiding officers shall proceed thereupon in the manner prescribed in the general election law when challenges are made, which law, with its penalties, is made applicable thereto, and no person whose vote shall have been received upon such challenge shall be again challenged upon any other question arising at the same town meeting.

§ 31. **Minutes of proceedings.**—The poll-list and minutes of the proceedings of every town meeting, subscribed by the clerk of such meeting, and by the officers presiding, shall be filed in the office of the town clerk within two days after such meeting and there preserved.

§ 32. **Transaction of business not requiring a ballot.**—The business of the towns which requires a vote of the people otherwise than by ballot shall be commenced at twelve o'clock noon of the day of the annual town meeting and completed without adjournment. No question involving the expenditure of money shall be introduced after two o'clock in the afternoon of the same day. All questions upon motion made at town meetings shall be determined by the majority of the electors voting, and the officers presiding at such meeting shall ascertain and declare the result of the votes upon each question.

§ 33. **Votes to expend over five hundred dollars.**—All votes in town meetings upon any proposition to raise or appropriate money

or incur any town liability exceeding five hundred dollars shall be by ballot; if five hundred dollars or less may be viva voce, unless ballot is required by the law authorizing the expenditure.

**§ 34. Notice of propositions to be determined by ballot.**—No proposition or other matter than the election of officers, shall be voted upon by ballot at any town meeting, unless the town officers or other persons entitled to demand a vote of the electors of the town thereon, shall, at least twenty days before the town meeting, file with the town clerk a written application, plainly stating the question they desire to have voted upon, and requesting a vote thereon at such town meeting. When town officers, as such, make the application for a vote to raise money for purposes pertaining to their duties, they shall file with their application a statement of their account to date, with the facts and circumstances which, in their opinion, make the appropriation applied for necessary, and their estimation of the sum necessary for the purpose stated, which statement may be examined by any elector of the town, and shall be publicly read by the town clerk at the meeting when and where the vote is taken, at the request of any elector. The town clerk shall, at the expense of his town, give at least ten days' notice, posted conspicuously in at least four of the most public places in town, of any such proposed question, and that a vote will be taken by ballot at the town meeting mentioned. He shall also, at the expense of his town, provide a ballot-box, properly labeled, briefly indicating the question to be voted upon, into which all ballots voted upon the question indicated shall be deposited. He shall also prepare and have at the town meeting a sufficient number of written or printed ballots, both for and against the question to be voted upon, for the use of the electors. The vote shall be canvassed, the result determined and entered upon the minutes of the meeting, the same as votes given for town officers.

**§ 35. Proclamation of opening and closing polls.**—Before the electors shall proceed to elect any town officer, proclamation shall be made of the opening of the polls, and proclamation shall in like manner be made at each adjournment and of the opening and closing of the polls until the election be ended.

**§ 36. Erection or discontinuance of pounds.**—Whenever the electors of any town shall determine at an annual town meeting, to erect one or more pounds therein, and whenever a pound shall now be erected in any town, the same shall be kept under the care and direction of a pound-master, to be elected or appointed for that pur-

necessary by reason of transfer of the title of either of the adjoining owners, to the whole, or any portion of the adjoining lands, by conveyance, devise or descent, such subdivision or new apportionment shall thereupon be made by the adjoining owners affected thereby; and either adjoining owner shall refund to the other a just proportion of the value at the time of such transfer of title, of any division fence that shall theretofore have been made and maintained by such other adjoining owner, or the person from whom he derived his title, or he shall build his proportion of such division fence. The value of any fence, and the proportion thereof to be paid by any person, and the proportion to be built by him, shall be determined by any two of the fence viewers of the town, in case of disagreement.

§ 103. **Settlement of disputes.**—If disputes arise between the owners of adjoining lands, concerning the liability of either party to make or maintain any division fence, or the proportion or particular part of the fence to be made or maintained by either of them, such dispute shall be settled by any two of the fence viewers of the town, one of whom shall be chosen by each party; and if either neglect, after eight days' notice to make such choice, the other party may select both. The fence viewers, in all matters heard by them, shall see that all interested parties have had reasonable notice thereof, and shall examine the premises and hear the allegations of the parties. If they can not agree, they shall select another fence viewer to act with them, and the decision of any two shall be reduced to writing, and contain a description of the fence, and the proportion to be maintained by each, and shall be forthwith filed in the office of the town clerk, and shall be final upon the parties to such dispute, and all parties holding under them.

§ 104. **Powers of fence viewers.**—Witnesses may be examined by the fence viewers on all questions submitted to them; and either of such fence viewers may issue subpoenas for witnesses, who shall receive the same fees as witnesses in a justice's court. Each fence viewer thus employed shall be entitled to one dollar and fifty cents per diem. The party refusing or neglecting to pay the fence viewers or either of them, shall be liable to an action for the same with costs.

§ 105. **Neglect to make or repair division fence.**—If any person who is liable to contribute to the erection or repair of a division fence, shall neglect or refuse to make and maintain his proportion of such fence, or shall permit the same to be out of repair, he shall be

liable to pay the party injured all such damages as shall accrue thereby, to be ascertained and appraised by any two fence viewers of the town, and to be recovered with costs. The appraisement shall be reduced to writing, and signed by the fence viewers making it. If such neglect or refusal shall be continued for the period of one month after request in writing to make or repair the fence, the party injured may make or repair the same, at the expense of the party so neglecting or refusing, to be recovered from him with costs.

§ 106. **Fence destroyed by accident.**—Whenever a division fence shall be injured or destroyed by floods, or other casualty, the person bound to make and repair such fence, or any part thereof, shall make or repair the same, or his just proportion thereof, within ten days after he shall be so required by any person interested therein. Such requisition shall be in writing, and signed by the party making it. If the person so notified shall refuse or neglect to make or repair his proportion of such fence, for the space of ten days after such request, the party injured may make or repair the same at the expense of the party so refusing or neglecting, to be recovered from him with costs.

§ 107. **Damages for insufficient fence.**—Whenever the electors of any town shall have made any rule or regulation, prescribing what shall be deemed a sufficient division fence in such town, any person who shall thereafter neglect to keep a fence according to such rule or regulation shall be precluded from recovering compensation, for damages done by any beast lawfully kept upon the adjoining lands that may enter therefrom on any lands of such person, not fenced in conformity to the said rule or regulation, through any such defective fence. When the sufficiency of a fence shall come in question in any action, it shall be presumed to have been sufficient until the contrary be established.

\*(R. S. p. 905.)\*

§ 108. **Damages for omitting to build fence.**—If an, person liable to contribute to the erection or repair of a division fence shall neglect or refuse to make and maintain his proportion of such fence, or shall permit the same to be out of repair, he shall not be allowed to have and maintain any action for damages incurred by beasts coming thereon from adjoining lands where such beasts are lawfully kept, by reason of such defective fence, but shall be liable to pay to the party injured all damages that shall accrue to his lands, and the crops, fruit trees and shrubbery thereon, and fixtures connected with the land, to be ascertained and appraised by any two fence viewers of

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\*So in the original.

the town, and to be recovered, with costs ; which appraisement shall be reduced to writing and signed\* by the fence viewers making the same, but shall be only prima facie evidence of the amount of such damages.

## ARTICLE VI.

### STRAYS AND CHATTELS DOING DAMAGE, FLOATING TIMBERS AND WRECKS.

#### SECTION 120. Strays and beasts doing damage.

121. Notice to town clerk.
122. Impounding beasts.
123. Notice to owner.
124. Charges for notices.
125. Fees of fence viewers.
126. When lien may be foreclosed.
127. Notice of sale by fence viewers.
128. Proceeds of sale.
129. Notice to owner of fence viewers' meeting.
130. Duties of fence viewers.
131. Foreclosure of lien by action.
132. Duty and fees of pound-master.
133. Surplus moneys.
134. Villages and cities deemed towns.
135. Damages from inanimate goods.
136. Penalty for conversion of floating timber.
137. Recovery of wrecked property.
138. Powers and duties of sheriffs, coroners and wreck-masters.
139. Sale of wreck.
140. Delivery of wreck or proceeds to claimant
141. Claimant's undertaking.
142. When owner may sue.
143. Claim for salvage.
144. Duties of wreck-masters.
145. Detention of wreck.
146. Appointment of appraisers.
147. Sale and disposition of property.
148. Publication of notices of sale.
149. Publication of notice of wrecked property
150. Appointment of wreck-masters.

§ 120. Strays and beasts doing damage.—Whenever any person shall have any strayed horses, cattle, sheep, swine or other beasts upon his inclosed land, or shall have any such beast on land owned or occupied by him doing damage, and such beast shall not have come upon such lands from adjoining lands, where they are lawfully kept, by reason of his refusal or neglect to make or maintain a division

\* So in the original.

fence required by him by law, such person may have a lien upon such beasts for the damage sustained by reason of their so coming upon his lands and doing damage, for his reasonable charges for keeping them, and all fees and costs made thereon, and he may keep such beasts until such damages, charges, fees and costs are paid, or such lien is foreclosed, upon complying with the provisions of this article relating thereto.

§ 121. **Notice to town clerk.**—If such beasts are not redeemed within five days after coming upon such lands, the person entitled to such lien, shall deliver to the town clerk of the town, within which such lands or some part thereof shall be, a written notice subscribed by him, containing his residence, and a description of the beasts so strayed or coming upon his lands, as near as may be, and that he claims a lien on such beasts for such damages, charges, fees and costs. The town clerk shall record the notice in a book to be kept by him for that purpose, for which he shall receive ten cents for each beast, to be paid by the person delivering the notice. Such book shall always be kept open for inspection, and no fees shall be taken by the clerk therefor.

§ 122. **Impounding beasts.**—Within six days after such beasts shall have come upon such lands, such owner or occupant may cause them to be put in the nearest pound in the same town, if there be one, there to remain until they are redeemed, sold or reclaimed according to law. If there be no such pound, or he elect to keep such beasts, he shall cause them to be properly fed and cared for until they are redeemed, sold or reclaimed according to law.

§ 123. **Notice to owners.**—Within thirty days after any such beasts may have come or been found upon any lands, the owner or occupant of the lands shall serve a written notice, either personally or by mail, upon the owner of the beasts, if known, that they are upon his lands, or in pound, as the case may be, and are held by him as strays or beasts doing damage, as the case may be; and if such owner is not known, he shall publish such notice, within such time, in the nearest newspaper of the county for at least two successive weeks.

§ 124. **Charges for notice.**—The person delivering the notice to the town clerk shall be entitled to receive therefor, in addition to the fees paid the town clerk, fifteen cents each for all horses, mules, cattle and swine, and five cents for each other beast described in the notice. If the charges, damages, costs and fees are not agreed upon between the person delivering the notice and the owner of the beasts, they shall be determined by two fence viewers of the town, one of



whom shall be selected by the person claiming the lien, the other by the fence viewer so selected. If such fence viewers can not agree, they shall select another to act with them, and the decision of any two of them shall be final.

§ 125. **Fees of fence viewers.**—Each fence viewer shall be entitled to receive ten cents for every mile he shall be obliged to travel from his residence to the place where the beasts are kept, and seventy-five cents for certificate of the charges as ascertained by them.

§ 126. **When lien may be foreclosed.**—If the owner of such beasts shall not redeem the same within three months after delivery of the notice to the town clerk, the person delivering the notice may foreclose his lien by action, or by a sale of the beasts, as herein provided. When a person claiming a lien, as herein provided, shall fail to establish the same, he shall not be entitled to receive anything for damages, charges, fees or costs, but shall be liable to pay all fees, costs and expenses incurred by reason of his keeping such beasts and the proceedings thereon.

§ 127. **Notice of sale by fence viewers.**—After such three months, a fence viewer of the town, on application of the person delivering the notice, shall give at least ten days' previous notice of the time and place of the sale of such beasts, by advertisement posted up in at least five public places in the town where such beasts may have been kept, one of which shall be at or near the outside door of the town clerk's office. At the time and place mentioned, such fence viewers shall sell such beasts to the highest bidder, unless redeemed by the owner.

§ 128. **Proceeds of sale.**—Out of the proceeds from such sale, the fence viewer shall retain and pay the sums charged for such notices, fees and costs, together with the sums specified in the certificate for keeping the beasts, and damages done by them; and the like charges for the sale, as are allowed on sales under executions issued out of justices' courts, and he shall pay the residue to the owner of the beasts, if he shall appear and demand the same.

§ 129. **Notice to owner of fence viewers' meeting.**—When the owner of such beasts is known and resides in the same town where such beasts are kept, five days' notice of the time and place of the meetings of the fence viewers to determine the damages done by such beasts, and the charges for keeping them, shall be personally served on him, if he resides in the same town; if he resides elsewhere, and his post-office address is known, such notice shall be served by mail or personally.

§ 130. **Duties of fence viewers.**—The fence viewers shall view the premises where damages are claimed to have been done, and they may issue subpoenas, examine witnesses and take any competent evidence of the facts and circumstances necessary to enable them to determine the matter submitted to them, and shall determine any dispute that may arise touching the sufficiency of any division fence around the premises where such damage was done, and from where and how the beasts came upon the lands of the person claiming such damages and charges; if they determine that for any cause the claimant's lien is not enforceable, they shall so certify, and the owner of the beasts shall thereupon be entitled to them without paying any charges thereon.

§ 131. **Foreclosure of lien by action.**—When such lien is foreclosed by action, all questions relating to damages, charges, sufficiency of fence, and from where and how such beasts came upon the lands of the person claiming such damages and charges, shall be proven upon the trial of such action, and no certificate of fence-viewers upon such questions shall then be necessary.

§ 132. **Duty and fees of pound-masters.**—Every pound-master shall receive and keep all beasts delivered to him as herein provided, until they shall be redeemed, sold or reclaimed, for which he shall be entitled to a reasonable compensation, not exceeding fifty cents per day for a horse or mule; twenty-five cents per day for each head of cattle, and fifteen cents per day for all other beasts, to be determined by the fence viewer making the sale, or the court before whom the action is tried, besides his fees for taking and discharging the beasts, to be paid by the owner of the beasts, if the lien is established, otherwise by the person claiming a lien thereon.

§ 133. **Surplus moneys.**—If the owner of the beasts shall not appear and demand the residue of such moneys within one year after the sale, he shall be thereafter precluded from recovering any part thereof, and the same shall be paid by the officer making the sale to the overseers of the poor of the town, or, in cities, to the officers having their powers, for the use of the poor thereof, and their receipt shall be a legal discharge to the keeper of such beasts and the officer selling the same. If the officer who shall have sold such beasts shall not, within thirty days after the expiration of the year, pay such moneys to the overseers of the poor of the town, or, in cities, to officers having their powers, he shall forfeit to the town or city double the sum so remaining in his hands, together with the amount of such moneys.

§ 134. **Villages and cities deemed towns.**—The villages and cities of this state shall be considered towns for the purposes of this article ; and the trustees of the village and the aldermen of the city shall be fence viewers therein for the purposes of this article.

§ 135. **Damages from inanimate goods.**—When any person shall be authorized to distrain inanimate goods or chattels doing damage, or whenever any logs, timbers, boards or plank, in rafts or otherwise, or other personal property shall have drifted upon his lands, he shall be entitled to the same remedies, and shall proceed therein in the same manner and with the same powers as herein provided with respect to beasts found doing damage, so far as such provisions are applicable. He may at any time deliver his notice of lien to the town clerk, describing the property, and he shall keep the same in some convenient place without removal to a pound, until the property is sold or reclaimed. The same officers shall conduct proceedings therein, as in proceedings where beasts are found doing damage, and all proceeds of sale shall be, in like manner, paid over and applied, subject to the same penalties and liabilities, and with the same force and effect.

§ 136. **Penalty for conversion of floating lumber.**—Whoever shall convert to his own use, without the consent of the owner thereof, any logs, timber, boards or plank, floating in any of the waters of this state, or lying on the banks or shores of any such waters, or on any island where the same may have drifted, shall, for every offense, forfeit to the owner of such logs, or other lumber, three times the value thereof.

§ 137. **Recovery of wrecked property.**—No ship, vessel or boat, nor any goods, wares and merchandise, cast by the sea or any inland lake or river upon the land, shall be deemed to belong to the people of the state as wrecked property, but may be recovered by the owner, consignee or person having the charge thereof at the time of the disaster by which the wreck was occasioned, upon the payment of a reasonable salvage and necessary expenses.

§ 138. **Powers and duties of sheriffs, coroners and wreck-masters.**—The sheriff, coroners and wreck-masters of every county in which any wrecked property shall be found, when no owner or other person entitled to the possession of such property shall appear, shall severally take all necessary measures for saving and securing such property ; take possession thereof, in whose hands soever the same may be, in the name of the people of the state ; cause the value thereof to be appraised by disinterested persons, and keep the

same in some safe place to answer the claims of the persons entitled thereto.

§ 139. **Sale of wreck.**—If the property so saved shall be perishable, so as to render the sale thereof expedient, the officer, in whose custody the same shall be, shall apply to the county court of the county, or the city court of the city, where such property may be, by a verified petition stating the facts, for an order authorizing such sale; if the court shall be satisfied that a sale of the property would be most beneficial to the parties interested, it shall make the order so applied for, and the officer having custody of the property, shall sell the same at public auction, at the time and in the manner specified in the order, and the proceeds of such sale, deducting the expenses allowed by the court, shall be paid to the treasurer of the county in which the property shall have been found.

§ 140. **Delivery of wreck or proceeds to claimant.**—If, within a year after such wrecked property shall have been found and saved, any person shall claim the same or the proceeds thereof, as owner or consignee, or the agent of the owner or consignee, and shall establish his claim by evidence, such court shall make an order directing the officer, in whose possession the property, or its proceeds shall be, to deliver or pay the same to the claimant, upon the payment by him of a reasonable salvage, and all necessary expenses incurred in the preservation and keeping of the property.

§ 141. **Claimant's undertaking.**—No such order shall, however, be made unless the claimant shall deliver to such court an undertaking with one or more sufficient sureties to be approved by the court, to the effect that he will pay all damages recovered against such claimant or his representatives, within two years after the date of the undertaking, by any person establishing his title as owner of such property or proceeds. The undertaking shall be filed in the clerk's office of the county in which it shall be taken.

§ 142. **When owner may sue.**—The rejection by the court of any claim for wrecked property, shall not preclude the claimant from maintaining an action for the recovery of such property or its proceeds, against the officer in whose hands the same shall be; but if the plaintiff in any such action shall prevail, there shall be deducted, in addition to the salvage and expenses charged on the property, from the damages recovered, the costs of the defense.

§ 143. **Claim for salvage.**—Every officer to whom any order duly made, for the delivery of the wrecked property, or its proceeds, shall be directed, shall present to the claimant exhibiting such order,

a written statement of the claims for salvage and expenses on such property, and proceeds. If the claimant shall refuse to allow such claims, the amount of such salvage and expenses shall be adjusted in the manner hereinafter provided, and, after the payment or tender of the payment of such salvage and expenses, as agreed to or adjusted, the officer, in whose custody such property or proceeds shall be, shall deliver or pay the same, according to the terms of the order directed to him.

§ 144. **Duties of wreck-masters.**—Wreck-masters in the several counties, shall give all possible aid and assistance to all vessels stranded on the coasts of their respective counties, and to the persons on board the same, and use their utmost endeavors to save and preserve such vessels and their cargoes, and all goods and merchandise which may be cast by the sea upon the land; and in the performance of these duties they shall employ such men as they may respectively think proper; and all magistrates, constables and citizens shall aid and assist the wreck-masters, when required in the discharge of their duties.

§ 145. **Detention of wreck.**—All sheriffs, coroners and wreck-masters, and all persons employed by them, and all other persons aiding and assisting in the recovery and preservation of wrecked property, shall be entitled to a reasonable allowance as salvage for their services, and to all expenses incurred by them in the performance of such services, out of the property saved, and the officer having the custody of such property shall detain the same until such salvage and expenses shall be paid, and the salvage claimed in any case shall not exceed one-half of the value of the property or proceeds, and every agreement, order or adjustment allowing a greater salvage shall be void.

§ 146. **Appointment of appraisers.**—If the amount of salvage and expenses on property saved shall not be adjusted by agreement of the parties, the owner or consignee of such property, or the master or supercargo having charge thereof at the time the same was wrecked, or a claimant having an order for its delivery, may apply to the county court of the county or the city court of a city in which such property shall be, for the appointment of suitable persons as appraisers, to adjust the amount of such salvage and expenses; and such court shall, by an order, appoint three disinterested freeholders of the county, not inhabitants of the town in which the property shall have been saved, to adjust such salvage and expenses, who, before they shall enter upon the performance of their duties,

shall be sworn to perform faithfully and impartially the duties of their trust. They shall have power to issue compulsory process for the attendance of witnesses, and to administer oaths to all witnesses who shall attend or be produced; and the written decision of the appraisers, or any two of them, as to the amount of salvage and expenses, and the sums to be paid to each person entitled to share in such salvage, or claiming such expenses shall be final and conclusive. The fees and expenses of the appraisers shall be paid by the person upon whose application they shall have been appointed, and shall be a charge upon the property saved. Each appraiser shall be entitled to five dollars for each day's necessary attendance and expenses.

§ 147. **Sale and disposition of property.**—If within a year after wrecked property shall have been saved, no person shall have appeared to claim the same, or if the salvage and expenses on such property shall have been paid within three months after the same shall have been adjusted, or an action for the recovery of the property have been commenced, the officer in whose custody the property shall be shall sell the same at public auction, and pay the proceeds of such sale, deducting salvage and expenses, into the treasury of this state, for the benefit of the parties interested; but in no case shall any deduction of salvage and expenses be made unless the amount thereof shall have been adjusted upon due proof, by an order of such county or city court, a copy of which order and of the evidence in support thereof, shall be transmitted by the court making it to the comptroller. If the property has been sold as perishable, the balance of the proceeds, after the salvage and expenses as adjusted, shall be paid by the county treasurer into the treasury of this state.

§ 148. **Publication of notices of sales.**—Public notice of every sale to be made of wrecked property, under the provisions of this article, shall be published by the officer making the sale, for at least two weeks in succession, in one or more of the newspapers published in the county where the property shall have been saved. Every such notice shall state the time and place of the sale, and shall contain a particular description of the property intended to be sold.

§ 149. **Publication of notice of wrecked property.**—Every sheriff, coroner, or wreck-master, into whose possession any wrecked property shall come, shall immediately thereafter publish a notice directed to all parties interested, for at least four weeks in succession, in one or more of the newspapers published in the county where the property shall have been saved. Every such notice shall contain a



minute description of such wrecked property, and every bale, bag, box, cask, piece or parcel thereof, and of the marks, brands, letters and figures on each, and shall state where such wrecked property then is, and its actual condition, and the name, if known, of the vessel from which it was taken or cast on shore, and the master and supercargo of such vessel, and the place where such vessel then is, and its actual condition. The expense of publishing every notice required to be published relating to wrecks, shall be charged on the property or proceeds to which it relates.

§ 150. **Appointment of wreck-masters.**—There shall continue to be fifteen wreck-masters for the county of Suffolk, twelve in the county of Queens, three in the county of Kings, two in the county of Richmond and two in the county of Westchester, who shall hold their office for two years, and be appointed by the governor.

## ARTICLE VII.

### THE TOWN BOARD.

**SECTION 160. Constitution and regular meeting of the town board.**

- 161. First meeting of town board.
- 162. Second meeting of town board.
- 163. Appeal from town board, to board of supervisors.
- 164. Accounts of justices in criminal matters.
- 165. Fees of officers in criminal proceedings, when town or county charge.
- 166. Pay of town officers.
- 167. Accounts to be made in items.
- 168. Saving clause.
- 169. Traveling fees.
- 170. Abstract for board of supervisors.
- 171. Town fire companies.
- 172. Electing town auditors.
- 173. Board to be elected.
- 174. Powers conferred upon town auditors.\*
- 175. Town board to appoint temporary board of auditors.
- 176. Compensation of town auditors; vacancies, how filled.
- 177. Town meeting may vote to discontinue.
- 178. Compensation of town officers
- 179. Pound-masters' fees.
- 180. What deemed town charges.
- 181. Excise moneys, how disposed of.
- 182. How towns to sue and be sued, and make contracts.
- 183. Actions for trespass on town lands.

§ 160. **Constitution and regular meetings of the town board.**  
—The supervisor, town clerk, and justice of the peace, or any two

\* So in the original.

of such justices, shall constitute the town board in each town, and shall hold at least two meetings annually, at the office of the town clerk, one on the Tuesday next preceding the annual town meeting, termed the first meeting; and the other on the Thursday next preceding the annual meeting of the board of supervisors, termed the second meeting of the town board.

§ 161. **First meeting of town board.**—At the first meeting of the town board, all town officers who receive or disburse any moneys of the town, shall account with the board for all such moneys received and disbursed by them, by virtue of their offices; but no member of the board shall sit as a member of the board when any account in which he is interested, is being audited by the board. The board shall make a statement of such accounts, and append thereto a certificate signed by at least a majority of them, showing the state of the accounts of each officer at the date of the certificate, which statement and certificate shall be filed with the town clerk of the town and be by him produced at the next annual town meeting, and publicly read, if requested by any elector.

§ 162. **Second meeting of town board.**—The second meeting of the town board shall be for the purpose of auditing accounts and allowing or rejecting all charges, claims and demands against the town. If any account is wholly rejected, the board shall make a certificate to that effect, signed by at least a majority of them, and file the same in the office of the town clerk. If the account is allowed wholly or in part, the board shall make a certificate to that effect, signed by at least a majority of them, and if allowed only in part, they shall state in the certificate the items or parts of items allowed, and the items or parts of items rejected, and shall cause a duplicate of every certificate allowing an account, wholly or in part, to be made, one of which duplicates shall be delivered to the town clerk of the town, to be by him kept on file for the inspection of any of the inhabitants of the town; and the other shall be delivered to the supervisor of the town, to be by him laid before the board of supervisors of his county, at their annual meeting. The board of supervisors shall cause to be levied and raised upon the town the amount specified in the certificate, in the same manner as they are directed to levy and raise other town charges.

§ 163. **Appeal from town board to board of supervisors.**—If any account of a justice of the peace, or town constable, for fees in criminal proceedings, is audited by a town board of any town, any taxpayer of the town may appeal from the auditing and allowance

to the board of supervisors of the county, and the board of supervisors may audit and allow such account. If the account shall be disallowed, or the amount thereof reduced, the party presenting the same shall have the same right of appeal as above provided. The appeal shall be taken within fifteen days after filing the certificate of allowance, or disallowance of an account by the town board, in whole or in part, by the service of a notice of appeal in writing on the town clerk and the clerk of the board of supervisors; and the town clerk shall forthwith thereafter transmit the account to the board of supervisors of the county, to be audited and allowed by them; and the town board shall have no further jurisdiction over the account after the service of the notice of appeal. Such part of such accounts as the board of supervisors shall allow, shall be assessed and collected the same as other town charges.

§ 164. **Accounts of justices in criminal matters.**—The accounts rendered by justices of the peace for services in criminal proceedings shall, in all cases, contain the name and residence of the complainant, the offense charged, the action of the justice on such complaint, the constable or officer to whom any warrant on such complaint was delivered, whether the person charged was or was not arrested, and whether an examination was waived or had, and witnesses sworn thereon; and the account shall also show the final action of the justice in the premises.

§ 165. **Fees of officers in criminal proceedings, when town or county charge.**—The fees of magistrates and other officers for services in criminal proceedings for or on account of an offense which a court of special sessions has not jurisdiction to try shall be a county charge if the magistrate had jurisdiction of the proceedings in which the services were rendered. The fees of magistrates and other officers in other criminal proceedings, or in criminal actions tried before a magistrate of the town where the offense is charged to have been committed, shall be a charge against such town. No fees shall be allowed, either as a town or county charge, to a magistrate or other officer, for services in a criminal action or proceeding, before a magistrate of one town for or on account of an offense charged to have been committed in another town and which a court of special sessions has jurisdiction to try, or which a magistrate has jurisdiction to hear and determine.

§ 166. **Pay of town officers.**—No town officer shall be allowed any per diem compensation for his services unless expressly provided by law.

§ 167. **Accounts to be made out in items.**—No account shall be audited by any board of town auditors or supervisors or superintendent of the poor for any services or disbursements unless such account shall be made out in items and accompanied with an affidavit attached thereto, and to be filed with such account, made by the person presenting or claiming the same, that the items of such account are correct and that the disbursements and services charged therein have been in fact made or rendered or are necessary to be made or rendered at that session of the board, and stating that no part thereof has been paid or satisfied; and the chairman of the board or either of the superintendents may administer any oath required under this section.

§ 168. **Saving clause.**—Nothing in the preceding section, shall be construed to prevent any board from disallowing any account, in whole or in part, when so rendered and verified, nor from requiring any other or further evidence of the truth and propriety thereof, as such board may think proper.

§ 169. **Traveling fees.**—No traveling fees shall be allowed for traveling to subpoena a witness, beyond the limits of the county in which the subpoena was issued, or of an adjoining county, unless the board auditing the account, shall be satisfied, by proof, that such witness, could not be subpoenaed without additional travel; nor shall any traveling fees for subpoenaing witnesses be allowed, except such as the board auditing the account, shall be satisfied were indispensably necessary.

§ 170. **Abstract for board of supervisors.**—Boards of town auditors, shall annually make brief abstracts of the names of all persons who have presented to them, accounts to be audited, the amounts claimed by each of such persons, and the amounts finally audited by them respectively, and shall deliver such abstracts to the clerk of the board of supervisors, and the clerk shall cause the same to be printed, with the statements required to be printed by him.

§ 171. **Town fire companies.**—The town board of any town may appoint, in writing, any number of inhabitants of their town, which they may deem necessary, to be a fire company for the extinguishment of fires in their town; but no such company, as herein provided, shall be formed in any incorporated city or village. Each fire company thus formed shall choose a captain and clerk thereof, and may establish such by-laws and regulation as may be necessary to enforce the performance, by such firemen, of their duty, and may impose such penalties, not exceeding five dollars for each offense, as may be necessary for that purpose. Such penalties may be collected by and

in the name of the captains, in any court having cognizance thereof, and when collected shall be expended by the companies for the repair and preservation of their engines and apparatus. All vacancies which may at any time happen in such companies by death, resignation or otherwise, shall, from time to time, be filled by the town board. The electors of any highway district, in which any town fire company shall have their headquarters, at a special meeting lawfully called by the town clerk, who is hereby authorized to call such special meeting, may vote by ballot a sum of money, not exceeding four thousand dollars, for the purchase of a fire-engine and apparatus. And whenever said electors shall so vote said money for the purchase of a fire-engine and apparatus, the commissioners of the highway may contract for and purchase for such district a good and sufficient fire-engine and apparatus, at a price not to exceed the sum so voted, which engine and apparatus shall be the property of said highway district, but may be used and cared for by such fire company. The purchase price of said fire-engine and apparatus shall be assessed and levied upon the property of said district and collected in the same manner as other town charges are assessed, levied and collected, except that the amount thereof shall be put in a separate column upon the tax-roll, and the board of supervisors of the county shall cause the sum as certified by the town board to be levied upon the taxable property of such highway district. [*Thus amended by L. 1891, chap. 254.*]

§ 172. **Electing town auditors.**—The electors in each of the towns may, on the application of twenty freeholders residing therein, at any annual town meeting, determine by ballot whether there shall be elected, at the next succeeding annual town meeting, held in the town, a board of town auditors, in and for the town, independent of the town board in the manner, and under the restrictions, hereinafter prescribed.

§ 173. **Board to be elected.**—If a majority of the ballots so cast, shall be in favor of electing a board of town auditors, there shall be elected, at the next succeeding annual town meeting, three town auditors, who shall form the board of town auditors of the town, one of whom shall be elected for one year, one for two years and one for three years; and annually thereafter, unless otherwise determined, as provided in this article, one town auditor, to serve three years.

§ 174. **Powers conferred upon town auditors.**—Upon the election or appointment and qualification of any such board of town auditors in any town, the powers of the town board of that town,

with respect to auditing, allowing or rejecting all accounts, charges, claims or demands against the town, and with respect to the examination, audit and certification of accounts of town officers, and the authorization of town expenditures, shall devolve upon, and thereafter be exercised by such board of town auditors, during the continuance of such board; and with respect to the powers so conferred, and the duties so imposed, they shall be the town board of the town during their continuance. No person so elected or appointed shall hold any other office in the town during the term for which he is elected or appointed; and if he shall accept an election or appointment to any other office in the town, he shall immediately cease to be a town auditor, and the vacancy in his office shall be supplied in the manner hereinafter provided.

§ 175. **Town board to appoint temporary board of town auditors.**—The town board of the town in which the electors shall determine to elect a board of town auditors, or a majority of them, shall, within sixty days after the town meeting where it was so determined, convene at some suitable place in the town, at the hour of ten o'clock in the forenoon, and appoint, in writing under their hands and seals, three persons having the qualifications herein prescribed, to be town auditors of the town, and shall immediately cause such appointment to be filed with the town clerk. The persons so appointed shall, within ten days after receiving notice of their appointment take, subscribe and file in the office of the town, clerk the oath of office; and thereupon they shall be the board of town auditors of the town, and shall possess and exercise all the powers and duties of town auditors, and shall hold and discharge the duties of the office until the next annual town meeting to be held in the town after their appointment.

§ 176. **Compensation of town auditors; vacancies how filled.**—Each of such town auditors shall be entitled to receive for his services three dollars for each day, not exceeding ten days in any one year. The supervisor of the town shall appoint some suitable and competent person to fill any vacancy occurring in the board of town auditors until the next annual town meeting.

§ 177. **Town meeting may vote to discontinue.**—At any subsequent town meeting, after the expiration of five years from the determination to elect a board of town auditors, the electors of the town may determine by ballot to abolish such board in the same manner as they determined to establish such board; and thereupon such board shall be abolished.



§ 178. **Compensation of town officers.**—The following town officers shall be entitled to compensation at the following rates for each day actually and necessarily devoted by them to the service of the town, in the duties of their respective offices, when no fee is allowed by law for the service :

1. The supervisor (except when attending the board of supervisors), town clerks, assessors, justices of the peace, overseers of the poor, inspectors of election, and clerks of the polls, two dollars per day, each of them.

2. Commissioners of highways, when there is but one such officer, two dollars per day ; when more than one such officer in a town, one dollar and fifty cents per day.

§ 179. **Pound-master's fees.**—The pound-masters shall be allowed the following fees for their services, to wit : For taking into the pound and discharging therefrom every horse, mule and head of cattle, fifteen cents ; for every other beast ten cents.

§ 180. **What deemed town charges.**—The following shall be deemed town charges :

1. The compensation of town officers for services rendered for their respective towns.

2. The contingent expenses necessarily incurred for the use and benefit of the town.

3. The moneys authorized to be raised by the vote of a town meeting for any town purpose.

4. Every sum directed by law to be raised for any town purpose.

5. All judgments duly recovered against a town.

6. All damages recovered against a town officer for any act done pursuant to a direction or resolution, duly adopted by the town board, or at a town meeting duly held ; and all damages against any such officer for any act done in good faith, in his official capacity, without any such direction or resolution, may be made a town charge, by a vote of the town, at a town meeting duly held.

7. The costs and expenses, lawfully incurred by any town officer in prosecuting or defending any action or proceeding brought by or against the town or such officer for an official act done, shall be a town charge in all cases where the officer is required by law to so prosecute or defend, or to do such act, or is instructed to so prosecute or defend, or do such act, by resolution duly adopted by the town board, or at a town meeting duly held. All town charges specified in this section shall be presented to the town board for audit, and the moneys necessary to defray such charges shall be levied

on the taxable property in such town by the board of supervisors.

§ 181. **Excise moneys how disposed of.**—All excise moneys shall be disposed of as directed by the town board of the town in which such moneys are paid, except in those counties where the support of the poor is a county charge, in which case such moneys shall be paid into the county treasury, subject to the control of the board of supervisors.

§ 182. **How towns to sue and be sued, and make contracts.**—Any action or special proceeding for the benefit of a town, upon a contract lawfully made with any of its town officers, to enforce any liability created or duty enjoined upon those officers, or the town represented by them, or to recover any penalty or forfeiture given to such officers, or the town represented by them, or to recover damages for injury to the property or rights of such officers, or the town represented by them, shall be in the name of the town. Any action or special proceeding to enforce the liability of the town upon any such contract, or for any liability of the town for any act or omission of its town officers, shall be in the name of the town; and all contracts made by such officers for and in behalf of their towns shall be in the name of the town. When such contracts are otherwise lawfully made, they shall be deemed the contracts of the town, notwithstanding it is omitted to be stated therein that they are in the name of the town.

§ 183. **Actions for trespass on town lands.**—Whenever an action is brought by a town to recover a penalty for a trespass committed upon its land, and it shall appear upon the trial that the damages from the trespass exceed ten dollars, the town shall recover the damages and costs in lieu of the penalty, and such recovery shall be a bar to any subsequent civil action for the same trespass.

## ARTICLE VIII.

### TOWN-HOUSES, LOCK-UPS, AND BURIAL GROUNDS.

#### SECTION 190. Town-house.

191. Erection and control of town-house.

192. Lock-ups.

193. Electors may choose trustees of burial-grounds

194. Trustees to lay out ground.

195. Burial-grounds, when to belong to town.

§ 190. **Town-house.**—The electors of any town in which there

shall not be a town-house, at any annual town meeting, or at a special town meeting lawfully called by the town clerk, may vote by ballot a sum of money not exceeding in dollars four times the number of electors in the town, for the purchase of a site and the building of a town-house, or for the purpose of contributing to the erection of a building for the joint use of the town and of an incorporated village within its limits. The board of supervisors of the county may cause the sum so voted to be collected with the other expenses of the town.

§ 191. **Erection and control of town-house.**—Sites shall be purchased and houses erected by the town board in the name of the town, and shall be controlled by the town board; and the electors may, from time to time, vote such sum of money as may be necessary to keep any town-house in repair and insured, except where the building is to be erected within the limits of an incorporated village and the town is to contribute but a part of the expense of erecting the building, in which case the town board and the board of trustees of the village shall agree upon the terms and conditions of the use, management, control and repair of the portion of the town-house for town and village purposes respectively.

§ 192. **Lock-ups.**—The electors of each town, upon the application of ten freeholders of the town, may, by ballot at their annual town meeting, direct the erection of one or more houses of detention, or lock-ups, for the detention of persons committed by the magistrates thereof, and direct such sums to be raised in their town by tax, for the expense of building, or of maintaining the same, as they may deem necessary. Such houses of detention, or lock-ups, may be used for the purpose of temporary keeping and confining all persons arrested by any constable or officer in the town prior to trial or examination, or committed by any magistrate of the town pending trial or examination before such magistrate, or after commitment to a county jail by a magistrate, when immediate removal to the county jail can not be made, and only until he can be conveniently removed to such jail.

§ 193. **Electors may choose trustees of burial-grounds.**—The electors of any town may, at an annual town meeting, choose three or five persons to act as a board of trustees of any burial-grounds within the limits of and belonging to the town, as such electors may designate, and direct the supervisor of the town to convey by deed to such board of trustees, and their successors in office, for the purposes hereinafter mentioned, the lands already composing such

grounds; and also any other lands that may be hereafter acquired for the purpose of enlarging such grounds. Such electors may also fill any vacancies that may occur in the board of trustees.

§ 194. **Trustees to lay out ground.**—Such board of trustees shall lay out into burial lots any grounds so conveyed to them; and within one year after the conveyance to them they shall cause to be recorded in the office of the clerk of the county in which they reside a plot or plots of the ground so laid out by them, which shall clearly indicate the number and location of the several lots, which plots shall be duly certified to, under the hands and seals of the chairman and secretary of the board, and acknowledged before an officer authorized to take proof and acknowledgment of deeds. They shall designate and set aside certain lots which shall be free for the interment of the remains of indigent persons, deceased, and shall sell and convey, by direction of a majority of the board, under the hands and seals of its chairman and secretary, burial lots, at such terms as may be agreed upon between the parties, and expend the moneys realized from such sale in improving and preserving the particular burial-ground from the sale of whose lots the moneys were received.

§ 195. **Burial-grounds, when to belong to town.**—The title to every lot or piece of land which shall have been used by the inhabitants of any town in this state as a cemetery or burial-ground for the space of fourteen years shall be deemed to be vested in such town, and shall be subject, in the same manner as other corporate property of towns, to the government and direction of the electors in town meeting.

## ARTICLE IX.

### THE MUNICIPAL DEBT LAW.

SECTION 210. Annual reports to board of supervisors.

211. Form of reports.

212. Publication of reports.

213. Duplicate reports.

214. Cancellation of bonds.

§ 210. **Annual reports to board of supervisors.**—When a town has a public debt, consisting of bonds, or other evidence of debt issued on the credit of the town, the supervisor thereof, shall make a report to the board of supervisors of the county, at every annual session thereafter, of the amount of such indebtedness.

§ 211. **Form of reports.**—Such report shall be in tabular form

specifying the different acts under which the bonds or debts were issued, with the rate of interest thereon, the amount unpaid at the time of the election of the supervisor, and the amount of debt paid at the date of his report, and coming due during his term of office.

§ 212. **Publication of report.**—The report so made, shall be published in the annual report of the proceedings of the board of supervisors.

§ 213. **Duplicate reports.**—The supervisor shall also, at the expiration of his term of office, at the annual town meeting, make and present thereto, a duplicate copy of such report to the board of supervisors, including and adding thereto, the amount of bonds issued, and the amounts and interest paid, since the date of the report up to the day and date of his term of office, duly attested before a justice of the peace of his town, and which report shall be filed in the town clerk's office of the town, subject to the inspection, by an elector thereof.

§ 214. **Cancellation of bonds.**—All such bonds and coupons thereof paid, shall be cancelled by the town board of the town, at a meeting thereof to be held for that purpose, within ten days previous to the annual town meeting; and a record thereof shall be filed, signed by the board, in the office of the clerk of the town.

## ARTICLE X.

### TOWN BUSINESS IN COUNTIES OF MORE THAN THREE HUNDRED THOUSAND INHABITANTS.

#### SECTION 220. Election of, and term of town officers.

221. Term of town clerk and collector.

222. Fiscal year; meeting of town board.

223. Election districts.

224. Canvass; inspectors.

225. Canvass in case no justice present.

226. Town meeting, business of.

227. Notice to be published.

228. Resignations.

229. Vacancies.

230. Official oath and undertaking.

231. Term of office of constables.

232. Persons in office.

§ 220. **Election of and term of town officers.**—Town officers required to be elected in counties containing six hundred thousand or more inhabitants, as determined by the last preceding federal or

state enumeration of the inhabitants, taken prior to any election of town officers, except justices of the peace, shall hereafter be elected by ballot, by the electors of such town respectively, at the general election held in such towns; and the terms of office of the persons so elected shall commence and terminate on the first day of January each year, except as herein otherwise provided. [*Thus amended by L. 1892, chap. 61.*]

§ 221. **Term of town clerk and collector.**—The term of office of town clerk shall be three years from the first day of January, and of collector, three years from the first day of May next succeeding his election.

§ 222. **Fiscal year; meeting of town boards.**—The fiscal year in such towns shall commence on the first day of January then next preceding the annual town meeting. Town boards of such towns shall meet annually for the purpose of auditing the accounts of town officers at the office of the town clerk on the last Tuesday in December in each year at two o'clock in the afternoon except when the same shall occur on the twenty-fifth day of the month, in which case such meeting shall be held on the following day; and the supervisor and all other town officers or board of town officers who receive or disburse any moneys belonging to the town, shall account for the same under oath to said town board annually at such meeting.

§ 223. **Election districts.**—Each of said towns containing more than five hundred electors shall comprise one or more election districts, as the supervisor, town clerk and assessors thereof may deem necessary or proper. There shall be provided at the polling places in each election district of such towns at the general election held therein a separate ballot-box to be marked with the word "Town" in which shall be deposited all ballots to be correspondingly indorsed and containing the names of all town officers to be chosen at such election, and which ballots shall be canvassed and counted immediately after the completion of the canvass of the votes in the other boxes used at such election, and the inspectors shall make one certificate or statement only of the result of such canvass of votes for town officers and forward the same, within twenty-four hours thereafter to the town clerk. Such election for town officers shall be conducted in the same manner as elections for state and county officers, and all provisions of law affecting such elections shall extend to the elections held under this article, so far as applicable, except as herein otherwise provided.

§ 224. **Canvass; inspectors.**—In each of such towns contain-



ing more than one polling district, the justices of the peace shall attend at the office of the town clerk, on the second day after such election, at ten o'clock in the forenoon, and canvass the votes for town officers, as the same shall have been certified under the last preceding section, and the town clerk shall act as clerk in such canvass, and shall enter in his record a statement of the number of votes for each candidate in the several districts, and of the officers elected or chosen, which record shall be signed by him, and by the justice or justices acting as such canvassers. The person receiving the highest number of votes for the respective offices shall be deemed to be duly elected thereto, excepting only the inspectors of election for each election district; only two names for inspectors shall be placed on any one ballot, and the two receiving the greatest number of votes shall be declared elected, and the third inspector shall be selected by such justice or justices from the two persons in such election district who shall have the highest number of votes next to the two inspectors elected. In towns having but one election district, such selection of the third inspector shall be made by the town clerk; and the records of the votes cast, and of the town officers elected or chosen shall be signed by him only.

§ 225. **Canvass in case no justice present.**—The justice or justices of the peace present at the time and place appointed under the last preceding section, shall proceed with the canvass as herein provided. If none shall be present, the town clerk shall appoint some suitable person, who shall be sworn by him faithfully to perform such duty; and if the town clerk be absent, the justice or justices present shall appoint a suitable person in his place, who shall be sworn in like manner, and the person so appointed shall possess all the powers, and be subject to all the duties and responsibilities of the officers in whose place they are appointed. If any of the returns shall not have been received, or shall be required to be sent to the inspectors for correction, an adjournment may be taken, from day to day, for the purpose of procuring the proper returns.

§ 226. **Town meeting, business of.**—Town meetings shall continue to be held in such towns as now provided by law for the election of justices of the peace, and for the transaction of such business as is usually done at such meetings, other than the election of town officers, and the voters shall have power to meet and vote on the same, or any special town meeting, provided their names appear on the registry of the next preceding general election held in such election district, or provided they shall have been duly registered, as herein

provided, and not otherwise. The several boards of registry shall give ten days' notice by posting the same in ten or more public places in each election district of said towns, of their intention to meet for the purpose of registering the voters of such district whose names do not appear on such registry, which meeting shall be held on one day only in each election district, from nine o'clock in the morning until nine o'clock in the evening, not less than five or more than fifteen days preceding such annual or special town meeting. Such annual town meeting shall be held at twelve o'clock noon, and continue until the final completion of the business, not later than two o'clock in the afternoon, and in towns having more than one general district, not later than sunset.

§ 227. **Notice to be published.**—The notices required by law to be published by the town officers of the time and place of holding the general elections in said town shall include a statement of the several town officers to be chosen thereat, which statement shall be furnished to them for such purpose by the town clerk; but no such elections shall be held illegal for want of proper notice.

§ 228. **Resignations.** The supervisor and justices of the peace of a town, or a majority of them, may accept the resignation of any town officer therein, and make appointments to fill vacancies that may be caused thereby, or by death, removal from the town, refusal to serve or failure to qualify, and shall file the certificate of every such appointment forthwith in the office of the town clerk. The persons so appointed shall enter upon their duties as soon as they shall have duly qualified, and shall serve until the first day of January, or, in case of collectors, until the first day of May next succeeding the then ensuing general election.

§ 229. **Vacancies.**—Persons elected to supply vacancies in the office of supervisor, town clerk, collector and other offices in such towns, the full term of which are more than one year, shall be deemed elected for the full term thereof commencing on the first day of January, and collectors on the first day of May, next after their election, except justices of the peace, assessors, commissioners of highways, commissioners of excise, and other like officers of whom only one is elected in each year, in which last-named cases the persons elected to fill vacancies shall be deemed elected to serve from the first day of January or May, as aforesaid, and only for the then remaining and unexpired portion of the vacated term.

§ 230. **Official oath and undertaking.**—The supervisor and all other town officers hereafter elected or appointed in said towns, ex-

cept justices of the peace and inspectors of election, shall, before the commencement of the term for which they were elected or appointed, or if appointed to fill vacancies, within ten days after their appointment, severally take the constitutional oath of office, and file the same in the office of the town clerk; and also within the same time file therein the undertakings, if any, which are required to be given by them for the faithful discharge of their duties. The undertaking of collectors shall be given, as in other towns of this state. If the collector, or any of such officers, shall fail, neglect, refuse or omit to comply with the provisions of this section, a vacancy shall thereupon be created, which shall be filled by appointment, in the manner prescribed by this article; but none of the provisions of this section shall be deemed to extend to the bonds or undertakings of supervisors for school moneys, which bonds or undertakings may be given by him after entering upon the duties of his office, in the manner now provided by law.

§ 231. **Term of office of constables.**—The term of office of constables in such towns shall be five years from the first day of January, at the first election to be held in a town, pursuant to this article, which town shall not have constables, heretofore elected under the provisions of chapter five hundred and sixty-four of the laws of eighteen hundred and eighty-one. Five constables shall be elected, who shall hold their offices for one, two, three, four and five years, respectively, which shall be determined by the number of votes cast for each; those receiving the highest number of votes to have the longest term. In case of a tie vote, the town clerk shall select and decide; and thereafter only one constable shall be elected, in each year, for the full term of five years.

§ 232. **Persons in office.**—Nothing herein contained shall affect the term of office of any town officer elected or appointed in any town before the provisions of this article shall apply to such town, but such terms shall be and continue until the expiration of the term for which such officers were elected or appointed, and at the expiration thereof their successors elected pursuant to this article shall enter upon the discharge of their duties and serve until the first day of January or May, at the expiration of the term for which they shall have been severally elected.

## ARTICLE XI.

## REPEALING AND OTHER CLAUSES.

## SECTION 240. Laws repealed.

## 241. Saving clause.

## 242. Construction.

## 243. When to take effect.

## Schedule.

§ 240. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

§ 241. **Saving clause.**—The repeal of a law or any part of it specified in the annexed schedule shall not affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment incurred prior to the time when this act takes effect, under or by virtue of the laws so repealed, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such laws had not been repealed; and all actions or proceedings, civil or criminal, commenced under or by virtue of the laws so repealed and pending February twenty-eighth, eighteen hundred and ninety-one, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing unless it shall be otherwise specially provided by law.

§ 242. **Construction.**—The provisions of this chapter, so far as they are substantially the same as those laws existing on February twenty-eighth, eighteen hundred and ninety-one, shall be construed as a continuation of such laws, modified or amended, according to the language employed in this chapter, and not as new enactments; and references in laws not repealed, to provisions of law incorporated into this chapter and repealed, shall be construed as applying to the provisions so incorporated. Nothing in this chapter shall be construed to amend or repeal any provision of the Penal or Criminal Code.

§ 243. **When to take effect.**—This chapter shall take effect on the first day of March, eighteen hundred and ninety-one, except in towns in which the annual town meeting for eighteen hundred and ninety-one shall be held on or subsequently to March first, in which towns it shall take effect May first, eighteen hundred and ninety-one.

SCHEDULE OF LAWS REPEALED.

Revised Statutes . . . . .	Part I, chapter 5, title 4, art. 4 . . . . .	Sections 35 and 37 to 46 inclusive.
Revised Statutes . . . . .	Part I, chapter 11, titles 1, 2, 3, 4, 5, 6 and 7 . . . . .	All except sections 2 to 21, inclusive, in title 7.
Revised Statutes . . . . .	Part I, chapter 20, title 12 . . . . .	All.
Revised Statutes . . . . .	Part I, chapter 20, title 14 . . . . .	Sections 2 and 4.
Revised Statutes . . . . .	Part I, chapter 20, title 15 . . . . .	All except sections 12 to 21, inclusive.

LAWS OF	Chapter	Sections.
1829 . . . . .	356 . . . . .	All.
1830 . . . . .	289 . . . . .	2.
1830 . . . . .	290 . . . . .	All.
1830 . . . . .	320 . . . . .	3.
1831 . . . . .	52 . . . . .	All.
1832 . . . . .	109 . . . . .	All.
1832 . . . . .	222 . . . . .	All.
1833 . . . . .	270 . . . . .	All.
1834 . . . . .	16 . . . . .	All.
1838 . . . . .	172 . . . . .	All.
1838 . . . . .	261 . . . . .	All.
1839 . . . . .	389 . . . . .	All.
1840 . . . . .	305 . . . . .	All.
1845 . . . . .	180 . . . . .	1, 2, 3, 4, 23, 24, 25, 26 and 27.
1845 . . . . .	244 . . . . .	All.
1847 . . . . .	197 . . . . .	All.
1847 . . . . .	455 . . . . .	1, 2, 13 and 24.
1847 . . . . .	490 . . . . .	2.
1848 . . . . .	343 . . . . .	All.
1850 . . . . .	319 . . . . .	All.
1859 . . . . .	107 . . . . .	All.
1859 . . . . .	476 . . . . .	All.
1860 . . . . .	58 . . . . .	All.
1863 . . . . .	172 . . . . .	All.
1866 . . . . .	30 . . . . .	1.
1866 . . . . .	78 . . . . .	All.
1866 . . . . .	534 . . . . .	All.
1866 . . . . .	540 . . . . .	All.
1866 . . . . .	832 . . . . .	All.
1868 . . . . .	721 . . . . .	1.

## Ch. 20, G. L.

## THE TOWN LAW.

LAWS OF	Chapter	Section
1869.....	493.....	All.
1870.....	242.....	2.
1870.....	552.....	All.
1871.....	635.....	All.
1872.....	377.....	All.
1872.....	513.....	All.
1872.....	788.....	All.
1873.....	46.....	All.
1873.....	722.....	All.
1874.....	173.....	All.
1874.....	444.....	All.
1874.....	543.....	All.
1875.....	166.....	All.
1878.....	107.....	All.
1879.....	67.....	All.
1879.....	267.....	All.
1881.....	123.....	All.
1881.....	391.....	All.
1881.....	564.....	All.
1883.....	122.....	All.
1884.....	456.....	All.
1885.....	82.....	All.
1885.....	390.....	All.
1886.....	210.....	All.
1886.....	259.....	All.
1886.....	461.....	All.
1886.....	585.....	All.
1887.....	108.....	All.
1887.....	704.....	All.
1888.....	465.....	All.
1888.....	488.....	All.
1889.....	135.....	All.









**TABLE I.\***

**GENERAL STATUTES REPEALED BY THE GENERAL LAWS CONTAINED IN THIS VOLUME; ALSO SECTIONS OF THE REVISION CORRESPONDING TO SECTIONS REPEALED.**

Laws repealed.	R. S., 8th ed., pp.	Birds. Stat., pp.	Corresponding sections in Revision or other disposal.	This vol., pp.
<b>R. S., pt. I, ch. 1.</b>	127	2744	All rep. by State L. ....	1570
Tit. 1, § 1. ....	127	2744	State L., §§ 2-7. ....	1494
2, 1-2, 4-5. ....	148	2809	Not re-enacted. ....	1570
8. ....	149	2809	State L., § 11. ....	1528
3, 1-5. ....	151	.....	22, subs. 1-5. ....	1528
6. ....	158	.....	28, 1. ....	1586
7. ....	158	.....	81, 1. ....	1563
8. ....	154	.....	81, 8. ....	1564
9. ....	155	.....	22, 11. ....	1581
10. ....	156	.....	88. ....	1565
11. ....	157	.....	82, sub. 1. ....	1565
12-18. ....	158	.....	84. ....	1566
14. ....	160	.....	22, sub. 6. ....	1529
15. ....	160	.....	22, 7. ....	1580
16. ....	161	.....	22, 8. ....	1580
17. ....	161	.....	22, 9. ....	1580
18. ....	162	.....	22, 10. ....	1581
19. ....	162	.....	22, 6-10. ....	1529
20. ....	162	.....	22, 12-18. ....	1582
21. ....	163	.....	22, 14-15. ....	1582
22. ....	164	.....	22, 16. ....	1583
23. ....	164	.....	22, 17. ....	1583
24. ....	164	.....	22, 12-17. ....	1582
25. ....	165	.....	22, 18. ....	1583
26. ....	165	.....	22, 19. ....	1584
27. ....	165	.....	22, 20. ....	1584
28. ....	166	.....	28, 8. ....	1554
29. ....	166	.....	28, 4. ....	1554
<b>R. S., pt. I, ch. 5.</b>	367	2116	All rep. by Pub. Off. L. ....	1668
Tit. 1, §§ 1-16. ....	367	2116	See Const., iii, 2, 5, 10; iv, 1; v, 1, 4, 8; vi, 7, 12, 15-16, 18; x, 1; xiv, 8. ....	.....
			Civ. Code, § 8196. ....	.....
			Pub. Off. L., 2-8. ....	1656
			Leg. L., 7. ....	1671
			Exec. L., 8, 81, 86. ....	1691
			Salt Sp. L., 6. ....	1711
			Town L., 50. ....	2239
2, all. .... }	384	.....	See Const., iii, 2, 3, 5, 7-8; iv, 1, 3, 7; v, 1-2. ....	.....
3, §§ 1-12. .... }				.....
13. ....	387	1260	Exec. L., § 8. ....	1691
4, 14-15. ....	387	770	See Const., vi, 20; x, 1. ....	.....
			Civ. Code, § 8198. ....	.....
35. ....	388	1770	Town L., § 14 (last clause not re-enacted). ....	2231
36. ....	388	1770	Not re-enacted. ....	.....
37-46. ....	388	1770	Town L., §§ 20-22. ....	2233
47-50. ....	390	2708	See Const., x, 1. ....	.....
5, 1-20. ....	393	2640	See Const., v, 8-5, 8; x, 2. ....	.....
			Exec. L., § 80. ....	1701
			Co. L., 140. ....	1778

\*Prepared by the Commissioners of Statutory Revision, and published in this volume in pursuance of chapter 623 of the Laws of 1892.

*General Statutes repealed by the General Laws contained in this volume; also sections of Revision corresponding to sections repealed.*

Laws repealed.	R. S., 8th ed., pp.	Birds. Stat., pp.	Corresponding sections in Revision or other disposal.	This vol., pp.
(Continued.)				
<b>R. S., pt. I, ch. 5.</b>				
Tit. 5, §§ 1-20.....			Salt Sp. L., §§ 6, 18 .....	1711
6, 1.....	396	2117	Pub. Off. L., § 8 .....	1657
2.....	396	2117	Not re-enacted.....	
3.....	397	2117	Pub. Off. L., § 4.....	1657
4.....	397	2117	See Const., x, 3; Pub. Off. L., § 6....	1657
5-7.....	397	2118	Pub. Off. L., § 9.....	1658
8.....	397	2118	See Const., x, 3.....	
9-10.....	397	2118	Pub. Off. L., § 5.....	1657
11-12.....	397	2118	7.....	1657
13.....	398	2118	22.....	1658
14-16.....	398	2118	8.....	1658
17-18.....	398	2119	Not re-enacted.....	
19.....	398	2119	Pub. Off. L., §§ 8-9.....	1658
20-32.....	399	2119	Const., xii; Pub. Off. L., §§ 10-18, 20.	1659
33-4.....	402	2121	Pen. Code, § 42. Pub. Off. L., §§ 20-21.	1662
35-7.....	402	2121	Pub. Off. L., § 26.....	1665
38.....	402	2122	23.....	1664
39.....	403	2122	See Const., v, 7.....	
40.....	403	2122	Not re-enacted.....	
41.....	403	2122	Pub. Off. L., § 22.....	1663
42-3.....	403	2122	28-29.....	1666
44.....	403	2122	See Const., x, 1.....	
45-8.....	403	2122	Pub. Off. L., § 24.....	1664
49.....	404	2123	31.....	1667
50.....	408	2125	See Pen. Code, 57.....	
51-6.....	408	2126	Not re-enacted.....	
<b>R. S., pt. I, ch. 7.</b>	464	1806	All rep. by Leg. L.....	1690
Tit. 1, §§ 1-7.....	464		See Const., iii, §§ 3-5.....	
2, 1-5.....	465	1806	See Const., iii, 10-11; x, 6 .....	
6-10.....	466	1807	Leg. L., 2.....	1669
11.....	466	1807	Const., iii, 12.....	
12-14.....	466	1807	Leg. L., §§ 3-4.....	1670
15.....	467	1807	Const., vi, 1.....	
16-17.....	467	1808	Leg. L., 14-15, 42 .....	1674
3, 1-5.....	469	1808	Not re-enacted.....	
4, 1-9.....	470	2815	Const., i, 9; iii, 13; iv, 9 .....	
			Leg. L., § 40.....	1676
			41-2.....	1676
			43.....	1677
			45.....	1677
5, 1-11.....	476	1809	Civ. Code, 843, 887-913 .....	
			Leg. L., 60, 62 .....	1679
12-20.....	477	1810	Civ. Code, §§ 854, 887-913. Leg. L., § 64.	1680
21.....	478	1811	Not re-enacted.....	
6, 1-4.....	479		See Const., iii, 6; x, 9.....	
5.....	480		Leg. L., § 5.....	1670
6-13.....	480	1811	6-17.....	1670
<b>R. S., pt. I, ch. 8.</b>	495	1260	All but titles 3-4 rep. by Exec. L....	1707
Tit. 1, §§ 1-11.....	495	1260	Const., iv, 4-11 .....	
	495	1844	Crim. Code, §§ 827-835.....	
12-15.....	497	1260	State L., 11.....	1526
			Exec. L., 55.....	1698
			7.....	1692
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19.....	498	1261	Exec. L., § 5.....	1692
20-23.....	498	1261	3-4.....	1691
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Laws repealed.	R. S., 8th ed., pp.	Birds. Stat., pp.	Corresponding sections in Revision or other disposal.	This vol., pp.
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<b>R. S., pt. I, ch. 8.</b>				
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4-5.....	501	2683	Civ. Code, 933.....	
6-10, asam.				
1890, ch. 281	501	2683	Leg. L., 42, 46-47.....	1676
11-13.....	502	2683	Exec. L., 23-24.....	1693
14-15.....	502	2684	Leg. L., 46-47.....	1677
16-19.....	503	2684	Not re-enacted.....	1690
20-21.....	503	2684	State L., §§ 40, 44.....	1569
22.....	503	2684	Exec. L., 21.....	1693
3, 18.....	507	609	Superseded by Exec. L., § 31.....	1695
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5, 1-17.....	522	156	Pen. Code, § 240. Exec. L., §§ 52-4.	1697
6, 1-2.....	525	2759	Exec. L., § 62.....	1699
3-6.....	525	2759	Co. L., 34, 86.....	1754
7.....	525	2759	Exec. L., 62.....	1699
8, 1.....	529	2127	Civ. Code, 843. Pub. Off. L., § 10...	1659
2-18.....	529	2127	Not re-enacted.....	1707
14.....	532	2128	Exec. L., 70.....	1700
15.....	532	2128	71.....	1700
16.....	532	2128	Stat. Const. L., § 13.....	1487
17.....	532	2129	Civ. Code, 933.....	
18.....	532	2129	Pub. Off. L., 9.....	1658
			Exec. L., 21, 81.....	1693
19.....	532	2129	Not re-enacted.....	1707
<b>R. S., pt. I, ch. 9.</b>				
Tit. 1, §§ 1-2.....	555	2762	Title 1 rep. by Exec. L.....	1707
3.....	555	2762	Not re-enacted.....	1707
4-17.....	556	2763	Exec. L., 26, 32, 65.....	1694
			See Const., iv, 4, 8.....	
			Exec. L., §§ 3, 4, 20, 30, 40, 50, 60...	1691
<b>R. S., pt. I, ch. 11.</b>				
Tit. 1, §§ 1-3.....	877	3075	All except §§ 2-21 of title 7 rep. by Town L.....	2274
4-11.....	878	3075	See Const., viii, 1.....	
2, 1-3.....	880	3076	Gen. Corp. L., §§ 3, 10, 11.....	1801
4-9.....	880	3077	Town L., §§ 2, 182.....	2227
10.....	882	3080	3-5.....	2228
11-19.....	884	3080	10-12.....	2229
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2-3.....	888	3081	Not re-enacted.....	2274
4.....	888		Town L., §§ 27-32.....	2235
			35.....	2237
5.....	888	3081	Elect. L., 3, 100.....	1603
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			Pub. Off. L., 3.....	1657
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			Town L., 13.....	2231
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*General Statutes repealed by the General Laws contained in this volume; also sections of Revision corresponding to sections repealed.*

Laws repealed.	R. S., 8th ed., pp.	Birds. Stat., pp.	Corresponding sections in Revision or other disposal.	This vol., pp.
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4, 1-8.....	898	2857	80.....	2244
9-10.....	899	2858	81.....	2244
			88.....	2245
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17-29.....	901	51	Civ. Code, 120-34.....	2250
30-45.....	908	1155	Town L., 100-8.....	2247
46-9.....	906	8100	160-2.....	2258
50-2.....	911	8093	178-9.....	2264
5, 1-7.....	912	8093	Const., viii, 3. Gen. Corp. L., § 3...	1801
			Town L., §§ 2, 182-3.....	2237
8.....	913	8094	180.....	2264
6, 1.....	913	8094	86.....	2237
2-4.....	913	8094	180.....	2264
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7, 1.....	927	8079	195.....	2267
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Tit. 1, §§ 1-4.....	1018	780	All rep. by Co. L.....	1796
			Const., viii, 3.....	
			Gen. Corp. L., §§ 8, 10-12.....	1801
			Co. L., §§ 2-3, 12.....	1744
5-7.....	1019	731	4.....	1744
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5-7.....	1020	2861	10.....	1745
8.....	1020	2861	11.....	1659
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14.....	1021	2864	91.....	1766
15.....	1021	2864	23.....	1750
16.....	1021	2864	11.....	1745
17.....	1022	2864	1.....	1743
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			Pub. Off. L., 10-13, 20.....	1659
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52-3.....	1056	785	Co. L., § 161.....	1778
54-5.....	1056	785	Not re-enacted.....	
56-7.....	1056	786	Co. L., § 162.....	1779
58-9.....	1057	786	163.....	1780
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65.....	1058	786	Civ. Code, 933.....	
66.....	1058	787	Co. L., 163.....	1780
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*General Statutes repealed by the General Laws contained in this volume; also sections of Revision corresponding to sections repealed.*

Laws repealed.	R. S., 8th ed., pp.	Birds. Stat., pp.	Corresponding sections in Revision or other disposal.	This vol., pp.
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<b>R. S., pt. I, ch. 12.</b>				
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			Not re-enacted.....	1794
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Ch. 124 . . . . .	856	1464	Rep. by Ind. L., not re-enacted . . . .	1601
148, § 1 . . . . .	1059	2575	Co. L., § 235 . . . . .	1795
199, 2 . . . . .	1654	1635	Ins. L., 32, 44 . . . . .	1946
234 . . . . .	1965	1883	Bus. Corp. L., 1, 2 . . . . .	2042
246, 1 . . . . .	1800	2438	R. R. L., 42 . . . . .	2074
307 . . . . .	1966	1884	Bus. Corp. L., 1, 2 . . . . .	2042
328, 2 . . . . .	1678	1613	Ins. L., 12, 71 . . . . .	1936
3 . . . . .	1678	1647	6, 44 . . . . .	1933
356 . . . . .	2733	2102	Rep. by Exec. L., merely amendatory .	1708
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691.....	1856	2028	Rep. by Gen. Corp. L., amendatory ..	1817
694.....	1617	1563	Ins. L., § 33. ....	1946
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<b>1866.</b>				
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78.....	1966	1897	Rep. by Gen. Corp. L., not re-enacted	1817
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298.....	1617	1648	Rep. by Ins. L., not re-enacted.....	2039
323.....	.....	2025	Rep. by Gen. Corp. L., amendatory...	1817
371.....	1967	1886	Bus. Corp. L., § 2.....	2042
514.....	1609	1562	Rep. by Ins. L., merely amendatory..	2039
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.....	1501	3241	Rep. by Gen. Corp. L., not re enacted	1817
785.....	.....	1609	Rep. by Ins. L., merely amendatory..	2039
814, 3.....	818	2654	Salt Spr. L., § 8.....	1719
825.....	1618	1593	Rep. by Ins. L., not re-enacted.....	2039
832.....	908	3103	Town L., § 163.....	2259
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.....	1967	1884	Bus. Corp. L., § 1, 2.....	2042
.....	.....	.....	Gen. Corp. L., 5.....	1803
.....	1967	1892	Stock Corp. L., 40.....	1834
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862.....	197	.....	State L., 28, sub. 1.....	1553
<b>1867.</b>				
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248.....	.....	1892	Rep. by Gen. Corp. L., amendatory ..	1817
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335.....	405	2123	Rep. by Pub. Off. L., amendatory....	1668
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2 .....	1808	2485	R. R. L., §§ 57, 158.....	2081
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4.....	1969	.....	Gen. Corp. L., 11.....	1804
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6.....	2046	660	Stock Corp. L., 20, 27 .....	1828
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974, 1.....	1876	2735	54.....	1841
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			44 .....	1836
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345 .....	.....	2818	Rep. by Leg. L., merely amendatory..	1690
479 .....	381	2102	Exec. L., § 81.....	1702
482, 1.....	1678	1607	Ins. L., 16.....	1938
578 .....	1800	2022	R. R. L., 47.....	2076
623 .....	1668	1609	Rep. by Ins. L., merely amendatory..	2039
721, 1.....	900	2858	Rep. by Town L., merely amendatory..	2274
731 .....	1638	1580	Rep. by Ins. L., merely amendatory..	2039
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5.....	1785	2441	73.....	2087
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7.....	1785	2441	87.....	2072
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<b>1870.</b>				
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279.....	814	2650	Rep. by Salt Spr. L., not re-enacted..	1731
300.....	941	302	Gen. Mun. L., § 6.....	1734
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361.....	1025	2868	Rep. by Co. L., merely amendatory...	1797
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432.....	.....	2872	Rep. by Co. L., merely amendatory...	1797
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669.....	1742	2407	Rep. by Gen. Corp. L., amendatory ..	1818
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7.....	2009	915	21, 27.....	1829
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10.....	2009	916	Stock Corp. L., § 2... ..	1824
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877.....	903	1155	Rep. by Town L., merely amendatory	2275
426.....	.....	1881n	Rep. by Gen. Corp. L., amendatory ..	1818
458.....	935	1824	Gen. Mun. L., § 24.....	1740
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609.....	2007	914	Rep. by Gen. Corp. L., amendatory ..	1818
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788.....	891	3090	Rep. by Town L., merely amendatory	2275
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348.....	1366	1338	Rep. by High. L., merely amendatory.	2224
357.....	1667	1608	Rep. by Ins. L., merely amendatory..	2040
358.....	1968	1893	Rep. by Gen. Corp. L., amendatory..	1819
359.....	.....	1640	Rep. by Ins. L., merely amendatory..	2040
373.....	1505	1374	Trans. Corp. L., §§ 148-50.....	2173
			High. L., 30-53.....	2189
388, 2-13.....	744	394	Sup. by Civ. Code, §§ 843, 852-60.....	.....
410.....	214	.....	State L., § 24, sub. 1.....	1540
415, 1, 2.....	2049	3325	Trans. Corp. L., 82, 83.....	2157
3-6.....	2050	3326	84.....	2157
			Condemn. L. Civ. Code, § 3357ff.....	.....
435.....	1506	3237	Trans. Corp. L., § 130.....	2166
446.....	1788	2445	Rep. by Gen. Corp. L., amendatory....	1819
<b>1877.</b>				
Ch. 10.....	1604	239	Rep. by Bank. L., amendatory.....	1928
21.....	1073	.....	County L., § 222.....	1790
102.....	1044	2864	50, sub. 7.....	1757
103.....	.....	2458	Rep. by Gen. Corp. L., amendatory...	1819
158, § 1.....	1736	2541	Gen. Corp. L., § 18.....	1807
164.....	1476	3244	Rep. by Gen. Corp. L., amendatory...	1819
171.....	.....	.....	Rep. by Gen. Corp. L., amendatory...	1819
183.....	1693	1566	Stock Corp. L., § 21.....	1829
197.....	1370	1341	Rep. by High. L., merely amendatory.	2224
198.....	816	.....	Salt Spr. L., § 48.....	1780
209, 1.....	1694	1604	Ins. L., 12.....	1936
211, 1.....	1694	1566	Gen. Corp. L., 6.....	1803
224.....	.....	2414	Rep. by Gen. Corp. L., amendatory...	1819
229, 1, 2.....	1686	1616	Ins. L., § 22.....	1940
3.....	1686	1616	23.....	1940
241, 1-4.....	1658	1594	47, 48.....	1953
266.....	2074	56	Rep. by Gen. Corp. L., amendatory..	1819
320.....	942	803	Gen. Mun. L., § 11.....	1736
321, 2.....	1687	1617	Ins. L., 92.....	1972
322.....	411	927	Rep. by Elect. L., merely amendatory	1655
344, 1, 2.....	1371	1337	Highway L., § 62.....	2196
349.....	956	318	Gen. Mun. L., 17, 18.....	1738
374.....	1968	1881n	Rep. by Gen. Corp. L., amendatory...	1819
401, 4.....	1073	2947	Penal Code, §§ 528, 470.....	.....
423.....	1609	1562n	Rep. by Ins. L., merely amendatory..	2040
436, 1-4.....	1052	756	County L., §§ 143-6.....	1776
5-6.....	1054	757	12, sub. 5.....	1746
7.....	1054	758	141, 2, 3.....	1774
9.....	1054	758	140.....	1773
10.....	1054	758	141, sub. 5.....	1775
11.....	1054	758	Rep. by County L., not re-enacted....	1798
439, 1.....	1687	1656	Ins. L., §§ 13, 26, 28, 71.....	1936
2.....	1687	1657	54.....	1956
3.....	1688	1657	58.....	1956
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18, § 1.....	528	1029	Civ. Code, § 933.....	.....
2.....	528	2761	Exec. L., 64.....	1700
40.....	524	157	Pub. Off. L., 40.....	1667
49, 1-3.....	2415	3331	Exec. L., 51.....	1697
4.....	2416	3332	High. L., 70.....	2199
5.....	2416	3332	15.....	2185
61.....	2072	1390	71.....	2199
75, as am. L. 1889, ch. 526	942	303	Rep. by Gen. Corp. L., amendatory...	1819
96.....	1591	347	Gen. Mun. L., § 7.....	1734
98.....	1659	1594	Rep. by Bank. L., merely amendatory	1928
107, § 1.....	893	3090	Ins. L., § 129.....	1983
2-4.....	893	3091	Town L., 58.....	2241
114.....	1886	1862	Rep. by Town L., not re-enacted.....	2275
121.....	.....	.....	Rep. by High. L., merely amendatory.	2224
122.....	1045	1198	Rep. by Gen. Corp. L., amendatory ..	1819
132.....	1041	2878	Co. L., § 12.....	1745
138.....	.....	1641	Rep. by Co. L., merely amendatory...	1798
163, 1.....	1973	1891	Rep. by Ins. L., merely amendatory.	2040
203, 1, 2.....	1862	2216	Stock Corp. L., § 2.....	1824
3.....	1863	2217	Trans. Corp. L., 40.....	2142
4.....	1863	2217	Gen. Corp. L., 5, 11.....	1802
5.....	1863	2217	9.....	1804
6.....	1864	2218	Stock Corp. L., 41.....	1835
7.....	1864	2218	Trans. Corp. L., 40.....	2142
8.....	1864	2218	Stock Corp. L., 8, 20, 28.....	1825
9.....	1864	2218	Gen. Corp. L., 20, 21, 29.....	1807
10.....	1865	2218	Stock Corp. L., 20.....	1828
11, 12.....	1865	2219	27.....	1831
13.....	1865	2219	48.....	1835
14.....	1866	2219	40.....	1834
15-22.....	1866	2219	44-6.....	1836
23.....	1870	2228	54.....	1841
24.....	1870	2224	Rep. by Gen. Corp. L., not re-enacted.	1819
25, 26.....	1870	2224	Trans. Corp. L., § 42.....	2144
27.....	1871	2224	Condemn. L. Civ. Code, § 3357ff.....	.....
28.....	1871	2225	Trans. Corp. L., § 41.....	2143
29, 30.....	1871	2225	Rep. by Gen. Corp. L., not re-enacted.	1819
31, 32.....	1872	2225	Trans. Corp. L., §§ 43, 44.....	2144
33.....	1872	2226	47.....	2146
34.....	1874	2227	45.....	2145
35, 36.....	1874	2227	46, 48.....	2146
37.....	1874	2228	Condemn. L. Civ. Code, §§ 3363, 3358.....	.....
39.....	1875	2228	Trans. Corp. L., §§ 49, 50.....	2147
40.....	1875	2228	42.....	2144
41.....	1875	2228	53, 54.....	2149
42.....	1875	2229	Gen. Corp. L., 14.....	1805
43.....	1876	2229	Stock Corp. L., 2.....	1824
44.....	1876	2229	Rep. by Gen. Corp. L., not re-enacted	1819
45.....	1876	2229	Trans. Corp. L., § 52.....	2149
210.....	2072	1391	51.....	2148
212.....	299	2629	Const. art. viii, 1.....	.....
216.....	134	297	Stock Corp. L., 30.....	1832
228.....	2389	895	Trans. Corp. L., 40.....	2142
			Rep. by Gen. Corp. L., not re-enacted	1819
			Gen. Mun. L., § 27.....	1741
			Rep. by State L., not re-enacted.....	1572
			Rep. by Co. L., merely amendatory..	1798



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<b>1878.</b>			<b>(Continued.)</b>	
Ch. 239.....	1041	2879	Rep. by Co. L., merely amendatory ..	1798
245 .....	1389	1363	Rep. by High. L., amendatory... ..	2224
259.....	1073	751n	Co. L., § 222.....	1790
261, § 1.....	1801	2456n	Pen. Code, 426.....	..
264, 1-3.....	1736	676	Stock Corp. L., 44-6 .....	1896
282 .....	1655	1600	Rep. by Ins. L., merely amendatory..	2040
285 .....	1041	2878	Rep. by Co. L., merely amendatory..	1798
301 .....	533	2129	Pub. Off. L., § 40 .....	1667
307 .....	862	1465	Rep. by Ind. L., not re-enacted .....	1601
316 ... ..	1963	1892	Rep. by Gen. Corp. L., amendatory...	1819
317 .....	943	303	Rep. by Gen. Mun. L., amendatory...	1742
320 .....	863	1465	Ind. L., §§ 40, 43... ..	1582
334 .....	1988	379	Rep. by Gen. Corp. L., not re-enacted.	1819
337 .....	1694	1604	Rep. by Ins. L., merely amendatory..	2040
347, 2.....	1586	235	Bank. L., § 113.....	1895
354 .....	431	926	Rep. by Elect. L., merely amendatory	1655
370 .....	136	..	Rep. by State L., not re-enacted . . .	1572
374 .....	815	2664	Rep. by Salt Spr. L., not re-enacted..	1731
377 .....	1364	1876	See 67 N. Y. 109 .....	..
394 .....	1854	2028	Rep. by Gen. Corp. L., amendatory...	1819
<b>1879.</b>				
Ch. 31, § 2.....	1365	1343	Am. by L. 1889, ch. 120. Rep. by High. L. See 67 N. Y. 109....	2225
83 .....	214	.....	State L., § 27, sub. 4.....	1550
62 .....	951	314	Rep. by Gen. Mun. L., amendatory...	1742
67 .....	1365	1376	Rep. by Town L., merely amendatory.	2275
93 .....	137	2748	State L., § 4.....	1498
158 .....	.....	1641	Rep. by Ins. L., merely amendatory..	2040
161, 8.....	1674	1612n	Stat. Const. L., § 31... ..	1491
166 .....	137	2749	State L., 2.....	1494
206, 1.....	215	.....	21, sub. 6.....	1528
2, 8 .....	216	.....	36 .....	1568
214 ... ..	1507	3244	Trans. Corp. L., 127.....	2165
253 .....	1504	3238	Rep. by Gen. Corp. L., amendatory ..	1819
267 .....	924	3079	Rep. by Town L., merely amendatory	2275
275 .....	1045	2684	Co. L., § 76.....	1764
285 .....	1074	.....	222.....	1790
290 .....	.....	1881n	Rep. by Gen. Corp. L., amendatory...	1819
293 .....	1765	2458	Rep. by Gen. Corp. L., amendatory...	1819
307 .....	935	3026	Gen. Mun. L., § 8... ..	1733
330, 1, 2 .....	1074	751n	Co. L. 220.....	1789
3, as am. 1891, ch. 355.....	1074	751n	222.....	1790
847, 1, 2 .....	1688	1617	Ins. L., 88 .....	1909
850 .....	1790	2437	Rep. by Gen. Corp. L., amendatory ..	1819
855 .....	1074	.....	Co. L., § 231.....	1794
857 .....	1075	751n	222.....	1790
862 .....	1075	751n	222.....	1790
877 .....	2065	3086	Trans. Corp. L., 103 .....	2159
879 .....	483	1813	Rep. by Leg. L., not re-enacted.....	1690
893 .....	2046	661	Stock Corp. L., § 20 .....	1828
895 .....	1790	2484	21.....	1829
413 .....	2042	1840	21. ....	1829
415 ... ..	1802	.....	R. R. L., 36.....	2071
417 .....	299	2629	Rep. by Gen. Mun. L., amendatory...	1742
425 .....	215	.....	Rep. by State L., merely amendatory.	1572
441, 1... ..	1507	8238	Gen. Corp. L., § 32.....	1812

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<b>1879.</b>			<i>(Continued.)</i>	
Ch. 441, § 1.....	1507	8238	Trans. Corp. L., § 151.....	2175
2.....	1507	8239	188.....	2170
485.....	1664	1605	Rep. by Ins. L., merely amendatory..	2040
489, 1, 2.....	1660	1596	Ins. L., § 24.....	1941
3, 4.....	1660	1596	22.....	1940
5.....	1661	1596	58.....	1956
490.....	.....	1635	Rep. by Ins. L., merely amendatory..	2040
503.....	1783	2443	Rep. by Gen. Corp. L., amendatory...	1820
505, 1, 2.....	1791	2447	R. R. L., §§ 76, 77.....	2088
512.....	2088	1252	Trans. Corp. L., 61.....	2150
541.....	.....	.....	Rep. by Gen. Corp. L., amendatory ..	1820
<b>1880.</b>				
Ch. 4.....	407	2125	Pub. Off. L., § 20.....	1662
5.....	1791	2447	R. R. L., 82.....	2091
12.....	943	303	Rep by Gen. Mun. L., amendatory...	1742
15.....	217	.....	State L., § 25, sub. 16.....	1545
21.....	958	.....	Gen. Mun. L., 16.....	1738
22.....	.....	1564n	Rep. by Ins. L., merely amendatory..	2040
56, § 1.....	438	948	Elect. L., § 12.....	1608
2.....	438	948	Town L., 50.....	2289
3-9.....	438	948	Penal Code, 41k, sub. 1.....	.....
10, 11.....	439	949	Elect. L., 14, 100-102.....	1609
12.....	439	949	114, 115.....	1642
13.....	439	949	10.....	1607
14, 15.....	439	949	110.....	1640
16.....	439	949	117.....	1644
17.....	439	949	102.....	1633
18-21.....	439	949	10.....	1607
22.....	440	950	Penal Code, 41-41w.....	.....
60.....	.....	2685	Elect. L., 100.....	1632
69.....	223	.....	Leg. L., 48.....	1679
85, 1, 2.....	1973	1886	State L., 28, sub. 5.....	1555
3.....	1973	1886	Bus. Corp. L., 1, 2.....	2042
4.....	1973	1886	Rep. by Gen. Corp. L., not re-enacted.	1820
5, 6.....	1974	1886	Bus. Corp. L., § 7.....	2045
86.....	496	1260	16.....	2050
90.....	2065	8036	Rep. by Exec. L., merely amendatory..	1708
94.....	1784	2440	Trans. Corp. L., § 105.....	2160
110, 1.....	1661	1596	Rep. by Gen. Corp. L., amendatory ..	1820
2.....	1661	1597	Ins. L., § 118.....	1979
3, 4.....	1661	1597	45.....	1952
5.....	1662	1597	122, 123.....	1961
113.....	1736	676	53.....	1956
114, 1.....	1886	1359	Rep. by Gen. Corp. L., amendatory ..	1820
2-4.....	1886	1359	Rep. by Highway L., not re-enacted..	2224
115.....	2480	2553	Highway L., § 80ff.....	2201
133.....	1741	2406	Rep. by Exec. L., merely amendatory..	1708
139, 1-3.....	816	2664	Rep. by Gen. Corp. L., amendatory ..	1820
155.....	1792	2448	Salt Spr. L., §§ 14, 18.....	1716
160.....	880	.....	Stock Corp. L., 44-6.....	1836
168.....	1682	1569	Rep. by Exec. L., merely amendatory..	1708
175.....	1045	2684	Rep. by Ins. L., merely amendatory..	2040
182, § 1, as am.	.....	.....	County L., § 74.....	1764
1889, ch. 57..	1998	852	Stock Corp. L., 2... ..	1824
187.....	1986	875	Rep. by Gen. Corp. L., amendatory...	1820
196.....	823	.....	State L., § 24, subs. 2-9.....	1541
204.....	943	804	Rep. by Gen. Mun. L., amendatory..	1742

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222.....	1638	1580	Ins. L., 157.....	1996
228.....	1802	2454	R. R. L., 58.....	2062
225.....	1737	681	Stock Corp. L., 47.....	1837
233.....	1054	758	Rep. by Co. L., merely amendatory..	1798
234.....	2648	2101	Rep. by Exec. L., merely amendatory	1708
241.....	1974	1881n	Bus. Corp. L., §§ 1, 2.....	2042
254.....	.....	.....	Rep. by Gen. Corp. L., amendatory...	1820
263, §§ 4, 5.....	1974	1887	Bus. Corp. L., §§ 14, 15.....	2049
267.....	1839	2461	R. R. L., 20.....	2065
270.....	1075	751n	County L., 222.....	1790
805, 1-3.....	1400	1374	Highway L., 45-7.....	2193
840.....	139	2750	State L., 7.....	1510
849.....	1792	2431n	R. R. L., 78.....	2069
866.....	440	950	Elect. L., 80-9, 104.....	1626
415.....	1809	2487	R. R. L., 96.....	2102
417.....	.....	.....	Rep. by Gen. Corp. L., amendatory...	1820
427.....	1675	1613	Rep. by Ins. L., merely amendatory..	2040
428, 1.....	1623	1644	Ins. L., §§ 27, 28, 30.....	1942
2.....	1624	1645	29.....	1945
8.....	1624	1645	Penal Code, 577i, Ins. L., § 53.....	1956
4.....	1624	1645	Rep. by Ins. L., not re-enacted.....	2040
437.....	414	930	Rep. by Elect. L., merely amendatory.	1655
452.....	1662	1597	Ins. L., § 110.....	1974
460.....	441	1874	Elect. L., 183.....	1648
484, 1.....	1507	3239	Rep. by Gen. Corp. L., not re-enacted.	1820
2.....	1508	3239	Trans. Corp. L., § 149.....	2174
503.....	1354	1832	Rep. by Highway L., amendatory....	2224
504.....	1041	2879	Rep. by County L., amendatory.....	1798
510, 1.....	1793	2403	Stock Corp. L., § 28.....	1831
2.....	1793	2404	Gen. Corp. L., 20, 22.....	1807
512.....	1042	2880	Penal Code, 96, 618.....	.....
553.....	417	932	Rep. by Co. L., merely amendatory ..	1798
559.....	226	.....	Rep. by Elect. L., merely amendatory.	1655
574.....	816	2665n	State L., § 23, sub. 9.....	1589
575.....	1759	2431	Rep. by Salt Spr. L., not re-enacted..	1781
582.....	1793	2416	Rep. by Gen. Corp. L., amendatory ..	1820
583.....	.....	2424	R. R. L., § 16.....	2062
585, 1, 2.....	2397	2454	Rep. by Gen. Corp. L., amendatory ..	1820
			Pen. Code, § 426.....	.....
<b>1881.</b>				
Ch. 5.....	.....	2369	Rep. by Leg. L., merely amendatory.	1690
12.....	1075	751n	Co. L., § 222.....	1790
22, § 1.....	1724	677	Gen. Corp. L., 5.....	1802
58.....	.....	1884	Exec. L., 26.....	1694
77.....	2049	8325	Rep. by Gen. Corp. L., amendatory ..	1820
97.....	1044	2882	Rep. by Gen. Corp. L., amendatory ..	1820
117.....	1508	3239	Rep. by Co. L., merely amendatory ..	1798
123.....	893	3091	Rep. by Gen. Corp. L., amendatory ..	1820
137.....	415	930	Rep. by Town L., merely amendatory	2275
148.....	1795	2421	Rep. by Elect. L., merely amendatory	1655
163.....	416	932	R. R. L., § 8.....	2058
188, 1, 3.....	363	1466	Rep. by Elect. L., merely amendatory	1655
2.....	363	1466	Ind. L., § 71.....	1591
213.....	2048	3323	Rep. by Ind. L., not re-enacted ..	1601
215.....	488	2375n	Rep. by Gen. Corp. L., amendatory...	1820
226.....	988	2730	Rep. by Leg. L., merely amendatory.	1690
			Gen. Mun. L., § 25.....	1741

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233.....	227	1872	High. L., § 43.....	2192
239, § 1.....	227	.....	State L., 23, sub. 9.....	1539
2, 8.....	1026	2869	36.....	1568
264.....	.....	870	Rep. by Co. L., merely amendatory...	1798
295.....	2415	3381	Rep. by Gen. Corp. L., amendatory ..	1820
296.....	1060	739	Rep. by Gen. Corp. L., amendatory...	1820
302, 1.....	958	.....	Co. L., § 235.....	1795
308.....	2076	1246	Rep. by Gen. Mun. L., amendatory ..	1742
311.....	1509	826	Rep. by Gen. Corp. L., amendatory ..	1820
313.....	.....	3325	Rep. by Gen. Corp. L., amendatory ..	1820
321.....	1508	3240	Rep. by Gen. Corp. L., amendatory ..	1820
337.....	1796	2437	Rep. by Gen. Corp. L., amendatory ..	1820
338.....	1069	.....	Rep. by Gen. Corp. L., not re-enacted.	1820
350.....	1998	857	Co. L., § 202.....	1785
351, 1, 2....	1999	858	Bus. Corp. L., 1, 2.....	2042
8.....	1999	858	Gen. Corp. L., 5.....	1802
4.....	1999	858	Bus. Corp. L., 2.....	2042
5.....	1999	858	Gen. Corp. L., 29.....	1811
6, 7....	1999	859	Stock Corp. L., 27.....	1831
8.....	2000	859	Gen. Corp. L., 11.....	1804
10.....	2000	859	Stock Corp. L., 20.....	1828
854, 2.....	1075	751n	Gen. Corp. L., 20.....	1807
855, 1-3.....	864	1433	Rep. by Gen. Corp. L., not re-enacted	1820
891.....	894	3092	Gen. Corp. L., § 23.....	1809
899, 1-2.....	1802	2484	Stock Corp. L., 80.....	1832
3.....	1808	2484	Gen. Corp. L., 11.....	1804
4, 5.....	1808	2485	Co. L., 222.....	1790
411.....	1054	758	Ind. L., 12.....	1577
423.....	1981	370	Rep. by Town L., merely amendatory.	2275
434.....	1689	1618	R. R. L., §§ 138, 139.....	2125
439.....	1086	2874	140.....	2126
464.....	1505	1375	Penal Code, 419.....	.....
468, 1, 2....	1767	2461	R. R. L., 140, 141.....	2126
8.....	1767	2462	Rep. by Co. L., merely amendatory ..	1798
4.....	1768	2462	Rep. by Gen. Corp. L., amendatory ..	1821
5.....	1768	2462	Ins. L., § 36.....	1948
6.....	1769	2463	Rep. by Co. L., merely amendatory ..	1798
7.....	1769	2463	Rep. by Co. L., merely amendatory ..	1798
8.....	1769	2464	R. R. L., §§ 2, 17.....	2052
9.....	1769	2464	Gen. Corp. L., 5.....	1802
10.....	1769	2464	Exec. L., 26.....	1694
11.....	1770	2464	Gen. Corp. L., 5, 9.....	1802
12.....	1770	2464	29.....	1811
13.....	1770	2465	Stock Corp. L., 20, 27.....	1828
14.....	1806	2433	R. R. L., 18.....	2064
15.....	1689	1581	Rep. by Gen. Corp. L., not re-enacted.	1821
16.....	.....	.....	Stock Corp. L., § 41.....	1835
17.....	.....	.....	48.....	1835
18.....	.....	.....	R. R. L., 19.....	2065
19.....	.....	.....	Gen. Corp. L., 20.....	1807
20.....	.....	.....	Stock Corp. L., 20, 28.....	1828
21.....	.....	.....	44-6.....	1836
22.....	.....	.....	Gen. Corp. L., 7.....	1803
23.....	.....	.....	Stock Corp. L., 40.....	1834
24.....	.....	.....	Rep. by Gen. Corp. L., not re-enacted.	1821
25.....	.....	.....	R. R. L., § 37.....	2072
26.....	.....	.....	Ins. L., 160.....	1998
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